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LECTURES ON POLITICAL PRINCIPLES.

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C. P. 206. Art.

# LECTURES

ON

## POLITICAL PRINCIPLES;

THE SUBJECTS OF EIGHTEEN BOOKS,

IN

MONTESQUIEU'S SPIRIT OF LAWS:

READ TO STUDENTS

UNDER THE AUTHOR'S DIRECTION.

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Τελεία μάλιστα αρετή, ὅτι τῆς τελείας αρετῆς  
Χρησις ἐστίν. ARIST. Eth. ad Nicomach. l. 5. c. 3.

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BY THE REV. DAVID WILLIAMS.

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LONDON:

PRINTED BY

JOHN BELL, BRITISH LIBRARY, STRAND,  
Bookfeller to His Royal Highness the PRINCE of WALES.

M DCC LXXXIX.





## PREFACE.

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*IT* may not occur to every reader, that the principal intention of these Lectures, is to point out a mode of interesting the attention—where no coercive measures can be adopted, and the studies only of the pupil are under the direction of the preceptor.—The last twelve years of the author's life, have been applied to the assistance of mature age, or of persons approaching maturity, but of defective Education.

Perceiving the common academical mode of reading, and pronouncing observations or advice, had little effect, on memories not retentive; he formed the students into parties for and against the most celebrated writers on Political Oeconomy: and converted to his purpose, a prevalent passion in Englishmen, which had often embarrassed him.

*Whether, in opposing the positions of Montesquieu, he has, or has not succeeded? Whether the political principles he maintains, are demonstrable*

## PREFACE.

*or visionary?—are questions here of secondary importance.—To hesitate, to doubt, or to question established authorities, is more conducive to a habit of profitable reading, than the effort of committing opinions to memory. Persons in situations more advantageous than the author, may render extensive the utility of such a method; may ensure the best effects of their Lectures; improve the national judgment and taste; and combine the passion for eloquence with public and scientific principles.*

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TO  
HIS ROYAL HIGHNESS  
THE  
PRINCE OF WALES.

S I R,  
**B**Y a Dedication of "Lectures on  
"Political Principles" to your  
Royal Highness, I mean not to in-  
terfere with the candidates for your  
favor.

Circumstances have led me into an  
employment which, in abler hands,  
and under the protection of your  
a 4                      Royal



#### DEDICATION.

Royal Highness, would have important effects.

If political Oeconomy were included in the sciences essential to a liberal education, English Youth might enter public life with principles instead of prepossessions; and would not, from their birth, be enlisted in factions.

The Constitution of England, is commonly extolled, as the utmost effort of human reason; the Constitution of Turkey, at Constantinople, is deemed divine:—these are prejudices; and the dominion of prejudice, is verging to a termination.

In

### DEDICATION.

In the most celebrated and beneficial periods, the government of England has been administered, by arrangements or modes, diametrically opposite to the declared principles of the Constitution ; and the peace and power of the Throne, have been sunk in the brawling vortices of interested factions.

On the late suspension of the executive power—which exhibited to me nothing so truly great and affecting, as the tender and dutiful moderation of your Royal Highness—the passions of inveterate parties; sought advantages in the Constitution: it was urged to an effort ; and it became paralytic.

France

## DEDICATION.

France, at this time, is pregnant with events, for which England should be prepared: I mean not hostilely; but on the ground of political competition. If the ideas of wise and temperate patriotism, take effect in that country, it will instantly act on England, as on a cloud overcharged; and diffuse the principle of British invention, industry, and prosperity, among the numerous advantages of its climate or situation. — This is a probability, requiring attention, very different from that bestowed by English Princes on the management of parties; and will render talents necessary, more profound and comprehensive, than those which give celebrity to parliamentary advocates.

Talents



#### DEDICATION.

Talents in men, as virtues in plants, are discoverable by proper menstrea. Submission, acquiescence, and venality, are not the only ingredients in British minds : their best qualities should be sought by a Prince, who may be under a moral necessity of sustaining his exalted rank, by the virtues of all his people.

That the arts have the patronage of your Royal Highness, is a proper reason of approbation.

That the provinces of humor, wit, poetry, and eloquence, are your delight—is honorable to your taste.

Your manners constitute a general theme of applause : they assume the  
merit

#### DEDICATION.

merit of consummate prudence; they conciliate jealousy; check the venom of prostituted calumny; and charm those who can discern the virtues in graceful or elegant forms. — Command, from the dreary shores of Caledonia, the philosophic statesman of Britain:—give the profound ‘Historian of the Wealth of Nations,’ the daily direction of half an hour of your time; contemplate with him, the venerable but disordered machine, which you may be called to set in motion:—you will perfect your amiable character; you will furnish a pledge of wisdom and conduct, which approaching revolutions on the Continent render peculiarly important; and you will enable Englishmen to indulge their native  
gene-

DEDICATION.

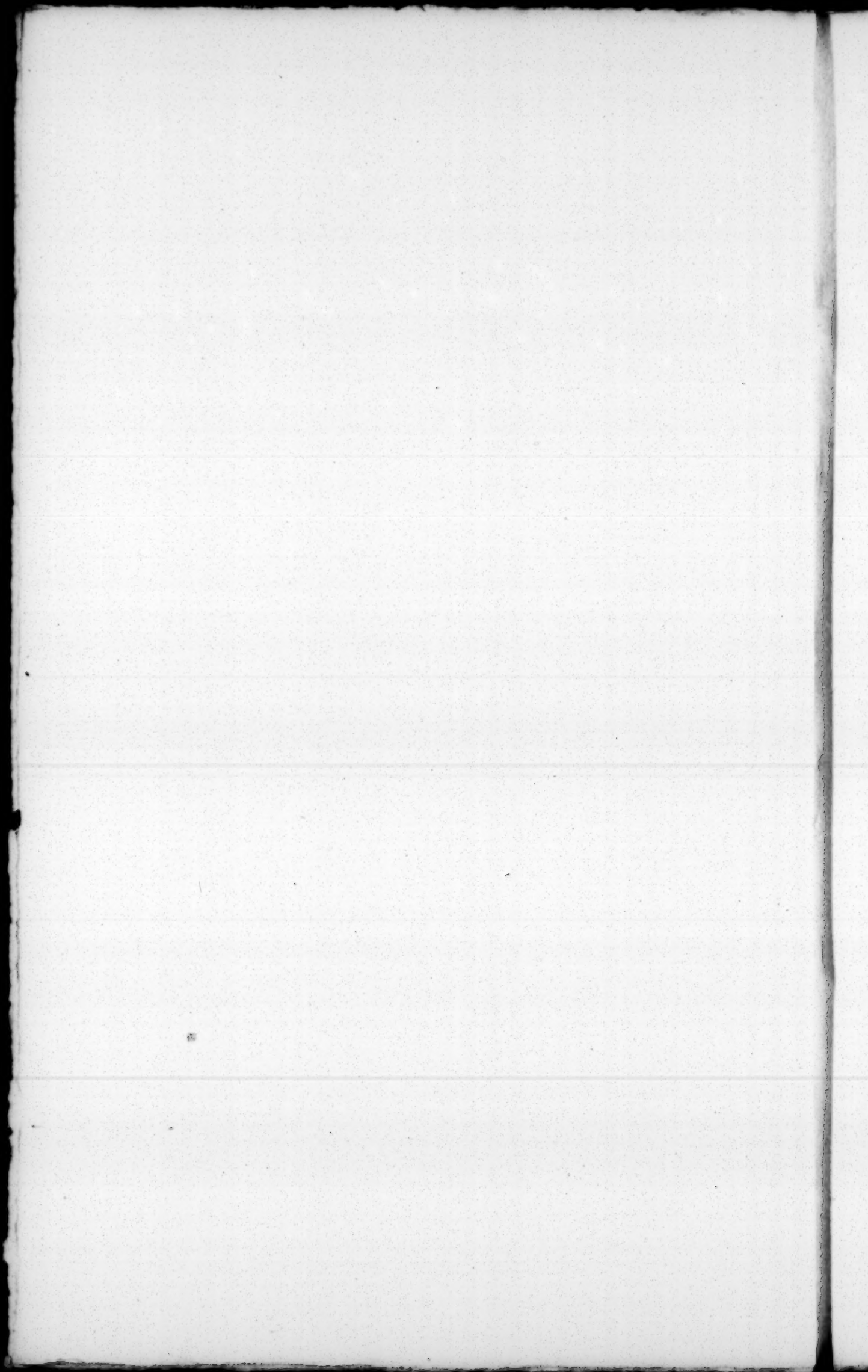
generosity, by rejoicing in the obvious progress of liberty through the world.

I have the Honor to be,  
With sincere Duty,  
And profound Respect,  
S I R,  
Your ROYAL HIGHNESS's,  
Most devoted,  
Most obedient,  
and  
Most humble Servant,  
DAVID WILLIAMS.

GREAT RUSSEL STREET, BLOOMSBURY,

May 30, 1789.





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# LECTURES, &c.

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## LECTURE I.

*The Origin of Civil and Political Society.*

THE genius of Montesquieu, is of an order commanding admiration and respect. It is fertile and inventive, in the art of displaying wonderful treasures of heterogeneous knowledge. His talents, in constructing the principles of a system; are not equal to those he employs, in drawing circumstances, from all imaginable quarters, to favor and support it. The predominant faculty of his mind, is imagination: his theory is fabricated from common prepossessions; as is generally the case

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in the fable of epic poems and plays : but his address in giving it plausibility ; the unaffected ease, with which extensive knowledge is applied ; the pertinence and beauty of the images and allusions ; and the charms of his style—have raised him above the rank, which he would have had a right to occupy with the first poets of any age or country. Montesquieu is, among politicians, what Sterne may be among divines : he assumes principles and truths ; searches the universe for circumstances to corroborate them ; warmly interests the heart in their favor ; and points and directs his language, with a delicate and irresistible hand. Hence the astonishing popularity of his writings. As grave, solid, and unornamented sermons are neglected, for the brilliant fallies of sentimental essays : the institutes of Justinian ; the works of Bodin, Harrington, Grotius, Puffendorf, Bacon, Hobbes, Stuart, and Hume,—are frequently discarded for the captivating charms of the Spirit of Laws. But I would not anticipate observations which may, in future,

ture, obviously arise from the subjects before us. I will only add, whatever reasons I may have, to guard youthful candor, in studying Montesquieu, from the effects of his address on doubtful principles—I have no inclination to check the most ardent and exquisite sensibility on the subject of his humanity, or benevolence. His talents will entitle him to admiration; but the goodness of his heart; an unremitting solicitude to meliorate the sufferings, and to promote the happiness of mankind; will secure to his memory the esteem and affection of all ages.

## BOOK I.

MONTESQUIEU, like political writers in general, involves the origin of society in the obscurities of metaphysics; and decides on the different systems of Atheism and Deism. These differences have no important effects on the merits of the question. If blind Fate act by fixed and regular laws, as he states the opinion of Atheists; the foundation of civil and political society



would be the same, as at the will of the Deity ; which he also affirms to direct all things by fixed and regular laws.

The invariable relations of bodies to each other, and the effects of objects on organized forms ; constitute the only foundations of knowlege, virtue, civil and political obligation, which we can approach. By repeated observations on these relations and effects, we form principles ; which, as they are accurately or inaccurately made, become perfect or imperfect laws of general conduct. The contemplation of these dispositions, has induced the author to adopt the antient doctrine of potential qualities ; and the relations of possible virtues, previous to their actual existence. We may respect, while we analyze, the mere reveries of fertile imaginations. It may be easily proved, at this time, that intelligent beings were possible, before they existed—and that all the relations, which have taken place, were practicable ; because they have taken place : but this is not the proper foundation of knowlege ; nor does it prove, what

what the author intended, that right and wrong depend not on positive laws. In order to remove the difficulties, with which that truth is supposed to be attended; it is not necessary to recur to potential worlds. To affirm, men have no idea of good and evil in actions, previous to the laws which they contrive on their feelings and apprehensions respecting them; is an absurdity and contradiction in terms. Justice and injustice are ideas, sometimes accurate, sometimes inaccurate, of good and evil, right and wrong; defined and enforced by laws: but not founded on those laws.

The first error of this respectable writer, plunges him into a species of impiety. To shew the necessity of laws in human society, he is obliged to allow potential relations and possible obligations have not sufficient effect: and he expressly affirms, Book i. Chapter ii. ‘the intelligent world, is far  
‘ from being so well governed, as the phy-  
‘ sical.’ I am persuaded, there are atheists, who would be offended at the assertion: knowledge of nature; admiration of its



phænomena ; and attachment to their idol, incomprehensible and adorable necessity !— would induce them to resent the groundless imputation. Attentive observers of the universe, perceive apparent deviations from general laws in the physical, as in the intellectual world ; but they are only apparent. The tyrant who crushes nations ; obeys impulses as natural and as forcible ; as the tempest that roots up the forest, or the torrent that desolates the plain. All things are right in the whole of Nature ; or it would not exist : good and evil are relative sensations and ideas ; though fixed and permanent, as the structure of the beings affected by them. It is not true, therefore, that man may transgress the laws of God ; though he may neglect and destroy his own happiness.



## BOOK I. CHAPTER II.

When the ingenious author has disengaged himself from the labyrinth of metaphysics; he ventures into the unbounded regions of conjecture and fable.

Political writers generally affect, to consider man, before the establishment of society.

There is nothing to be said, or imagined on the subject, beyond the narrations of the Bible; or other records of Divine Revelation. Believers, in books of this description, must adhere literally to their accounts: unbelievers have no grounds for imagining a state of Nature; which would not discredit the futile philosophy of novelists, or the common invention of dramatic poets. If the world be eternal; its inhabitants have occupied it, in eternal succession: and it is impossible to conceive, they should have existed as individuals, or detached families; or in any mode, but that of civil and political societies.

That the forms of those societies, have been exhibited in various gradations of imperfection, must be allowed: but that any man has lived a moment out of society, because no society existed to receive him; is a supposition, not to be admitted.

If admitted for speculation; there would be numerous causes of political associations, equally entitled to regard.

The inequality and difference of human talents, deserves the first rank among these causes. Whether we consider society, as originating in a single family, or in multitudes of detached individuals; the first consideration, is to employ their powers on the objects, calculated to gratify desire.

Mr. Hobbes thinks otherwise—and, to give plausibility to an hypothesis, he traces society from a state, which could not have taken place; that of a multitude, whose individuals were detached. They could not have been born and brought up in the ordinary modes, to have formed an assembly of individuals, inimical to each other. The brutes, in their manners, approach this state of war  
in



in exact proportion to the care taken by the dam to bring up its young ; and to educate them in the peaceable method of obtaining subsistence. There is a gradation in this scale, terminating in man ; who, from the time necessarily occupied in domestic society, learns more useful modes of employing his abilities, than those of violent and bloody competition.

To destroy this opinion, unpopular from the religious principles of Mr. Hobbes, the author supposes—the first feelings of men, to be those of imbecility ; and the first general passion, fear. His reason is an exemplary proof of the weakness of great men, distressed to support hypotheses. He says, I believe without authority, that savages are so timid, as to tremble at the motion of a leaf ; and that the opinion may not be doubted, he subjoins a note, ‘ witness the  
 ‘ savage, found in the forests of Hanover,  
 ‘ who was carried over to England, in the  
 ‘ reign of George I.’ as if the condition and apprehensions of a poor creature, unfortunately detached from a populous neighborhood ;



borhood ; proved any thing in regard to communities of savages.

The first act of association, according to the author, offers something extremely ludicrous to my imagination. ‘ The marks of ‘ fear, being reciprocal ;’ that is, ‘ delineated ‘ at once, on all their countenances ; immediately induced men to associate.’ Subsequent to this dramatic manoeuvre in nature, Montesquieu introduces, a sense of wants ; the pleasure one animal feels at the approach of another, of the same species ; (which does not accord with the doctrine radical and universal fear) the attraction of the sexes ; and the desire of living in society :—as the several links of his chain, to unite mankind.

Whatever may be determined concerning the provisions of Nature, or of Providence : it is certain, the institutions of men are regulated by final ; not by their opinions of primitive and original causes. The principles of virtue ; of civil and political society ; are, like those of the sciences, to be deduced from experience, observation, and reflection ;

reflection ; not from the fables of tradition, or the reveries of imagination. How the first house was constructed, or what were the precise motives in it, would be as fruitless an enquiry, as the exact passion, or sentiment, which collected the first community. The architect, the moralist, and the politician, must be governed by final causes ; the greatest possible utility and pleasure to be derived, both from the ingenious construction of the habitation, and the wise institution of the society.

## LECTURE II.

*Principles and Definitions.*

## BOOK II. CHAPTER III.

MR. Hobbes is among the most illustrious ornaments of literature. He has been to the moralists and politicians of England, as Spinoza to those of the continent;—the general fountain of principles and systems. But the odium on his name, from the imputation of Atheism; and the reluctance incident to men of letters in acknowledging obligations—induced them to withhold the truth from common knowledge. The reputation of Mr. Hobbes kept his works from public view, as effectually as the law of an inquisition; and originality, is the favorite claim of all writers. Locke silently drew materials from this source; leaving, in recondite and deep recesses, things of considerable value, which were perceived by the



the sagacity of Montesquieu, Hartley, and Hume.

These truths, the authenticity of which I would enable you to ascertain; may be unveiled without injury, when those to whom they relate have on other accounts secured immortal fame. The prepossessions against Mr. Hobbes are evaporating; and his works might be as popular as they are abhorred; if not degraded by a circumstance more exceptionable than Atheism:—I mean, insincerity: his political disquisitions are warped, by mean and interested dispositions, to pay court to the Stuart family at its restoration to the English crown.

The character of Mr. Hobbes, and that of Charles II.—the one a tutor in a noble family; and the other a powerful prince; would not bear a flight comparison, in their importance to the interests of mankind. The prince sunk into insignificance, with the mischiefs and follies of his reign: the philosopher left lessons which may be useful for ever. We lament, a consciousness of this difference did not actuate the mind  
of

of Mr. Hobbes. Whether any peculiarities in his state of dependance, were unfavorable to manly fortitude ; we cannot determine.—Whatever may have been the reason—his political discourses have a bias from that circumstance ; and a generous mind is mortified, in observing the same man, boldly breaking the chains of religious ; and rivetting those of political tyranny.

Montesquieu treats Hobbes, in the manner of all modern writers ; from Mr. Locke to the pamphleteers of factions, pretending to be his disciples. He is ever brought into view, as a criminal to receive confutation or chastisement.

Montesquieu, as we have seen, attempts to confute the opinion, that the origin of society is a state of war. But, having occasion for the principle, he transfers it into society ; in which he says, a state of war takes place, previous to the institution of laws. This is precisely the opinion of Mr. Hobbes.

Not-

Notwithstanding the involuntary co-incidence ; it seems to be an error. If an imagination, accustomed to facts and probabilities, could in any manner assemble a society, which had neither regulation nor law—the first struggle would be competition, and not war. Competition might possibly, and soon, produce war : but the idea to be given is that of the cause ; not the effect.

The same inaccuracy is observable in his account of the laws of nations. ‘ Each society feels its strength ; hence arises a state of war between different nations.’ The consequence is not necessary ; or to be found in the greater number of facts. Nations, like individuals, come into competition ; competition may produce war, or it may not : and war, as other evils produce benefits, may produce laws of nations.

But I believe it is not scientific, to fix on evils as principles ; though they may have some of their effects. Hence the importance of the distinction between competition and war : and systems of moral, or political



litical conduct, founded on these principles, may be as different as good and evil.

No passage, in the Spirit of Laws, engaged my attention so frequently, as the following ; and I recommend it to your deliberate consideration. ‘ As members of a  
 ‘ society, that must be properly supported,  
 ‘ men have *laws* relative to the governors,  
 ‘ and the governed ; and this we call *political*  
 ‘ *law—Droit politique*: they have another  
 ‘ sort of laws, relating to the mutual inter-  
 ‘ course of citizens ; by which is understood  
 ‘ the *civil law—Droit civil*.’

The natural progress of that important science, which has society for its object, may be thus described—the competition of individuals, is the occasion of civil laws ; and men have attained some knowledge in the art of forming and enforcing them : the reciprocal action of the great and massy parts of communities, which may also be called competition, gives rise to tacit customs, or written compacts ; which are fundamental, or constitutional laws. This branch of political science, as may be expected, is  
 in

in a very imperfect state. The magnitude of the parts to be adjusted, and of the evils attending an error ; deters men from applying scientific principles to them. Nations enjoy civil liberty, produced by just and natural principles ; while their political regulations would dishonor savages. No Spaniard searched for treasure in Mexico or Peru, with more avidity than I sought in Montesquieu for important information on this part of the science : but I found only definitions of terms. The man, who would state the genuine principles of legislation, and render them equally practicable with those of civil liberty ; would be the greatest benefactor of the world. We are ants, constructing little habitations with skill ; while the political state, including us, like their frail and insecure hillock, is crushed by the foot of the heedless passenger, or dissipated by a casual storm.

When political liberty is fixed on principles—then, and not till then, the law of nations will be understood and take place. This is the ultimate object of human abi-



lity. But we can only glance at it: the arrangements necessary to its establishment, require profound and comprehensive talents. The author passes lightly over the surface; and captivates the reader, by a sentimental maxim on the intercourse of societies—‘ That  
 ‘ different nations ought, in time of peace,  
 ‘ to do one another all the good they can;  
 ‘ and in time of war, as little harm as possible, without prejudicing their real interests.’

Montesquieu adopts, with apparent satisfaction, two definitions from Gravina. ‘ The  
 ‘ conjunction of the particular forces of individuals, is what we call the political  
 ‘ state.’ This may be admitted. But it does not lead to Montesquieu’s decision of the general question, What government is conformable to Nature? After hinting the opinions of others, he says, ‘ the government, most conformable to nature, is  
 ‘ that, whose particular constitution best  
 ‘ agrees with the humor and disposition of  
 ‘ the people, in favor of whom it is established.’—I mean to make this opinion,  
 the



the subject of a distinct enquiry. I shall therefore only observe, it does not accord with Gravina's definition of a political state: for the humor and disposition of some nations do not produce a conjunction of the particular forces of individuals, to form a general power. But it agrees still less, with the second definition, which Montesquieu introduces with the following reason. 'The particular force of individuals cannot be united, without the concurrence of all their wills.' "The conjunction of those wills, is what we call a civil state." It is only in a free nation, according to this account, that a civil state can be said to be formed. Either Montesquieu's opinion, or Gravina's definitions, must be erroneous.

There cannot be a better principle of civil and political union, than the following, which the author seems to introduce at random; and which may be applied to discredit and destroy his hypothesis. 'Law is human reason; for it governs all the inhabitants of the earth: the political and civil laws of each nation, ought to be only

‘ the particular cases, in which this human reason is applied.’ Unless, the various humors and dispositions of nations, be synonymous with human reason; the first principles and definitions of Montesquieu, are at variance with each other.

Every science is formed by the use and application of human reason; and it is essential to the nature of science, that its principles, when understood, should obtain assent. Arts and systematic expedients, bearing scientific names, may be the effect of national humors: but civil policy, has principles as fixed and unalterable, as the general nature of man; and we may as well affirm of geometry and astronomy, as of civil and political constitutions, that they must be suggested and formed by climate, soil, the extent of countries, and the humor of the inhabitants.

As the author intended to support a particular hypothesis, I could never imagine a reason for his giving general and scientific definitions. If governments are raised, like plants, out of the soil; nothing more could be



be necessary than a description of them, and the method of their cultivation. Montesquieu must probably have used scientific definitions only as ornaments: when he enters on the discussion of his system, they are totally disregarded.

I, therefore, think myself obliged to point out this work to you, not as a system of political and civil principles; but a curious and elaborate description of several forms of government. It differs from history, as the description of a machine from an account of its operations.

While we attend to the description, it may not be impracticable to study the construction of the machine; to point out its defects; and to refer the whole, to general principles.



## LECTURE III.

**I**N the second and third books of the Spirit of Laws, Montesquieu treats of the nature and principles of the three kinds of government, generally adopted. He has distinguished between the nature and principle of government, with great ingenuity: and having been implicitly followed in the distinction—it may deserve the particular attention of political students.

The definitions, in the second book, of democracy, aristocracy, monarchy, and despotic state, are in general just: and the fundamental principles in their constitutions, are properly ascertained; except in despotism.

• The laws, establishing the right of suffrage are fundamental to democracy; or to a republic bordering on democracy. The institution of intermediate, and subordinate powers, from the throne and the people, constitutes monarchy; where the prince governs by acknowledged customs. But  
why

why the appointment of a vizir, should be a fundamental law in despotic government, I never could understand:—it may be a question for your consideration.

The author, while he gives his work the air of scientific disquisition, hardly ever takes his eye from the pages of history. He is, therefore, often guilty of confounding principles and facts; and is sometimes the warm advocate of enormous abuses. When he points out the privileges of the clergy (Book ii. Chapter iv.), as moderating regal power, he forgets the duty of an apologist; and argues warmly for evils owing all their utility to the restraint and opposition of greater evils.

The fundamental law of despotism; or, the circumstance constituting a despotic government, is—that every thing be done at the will of the prince. It is a deviation so violent, from all the provisions made for the happiness of society, that it seldom takes place; or only for a short time. In the immediate road of conquest; and in the enthusiasm of military glory; combinations of



circumstances may bestow absolute authority on the General. But he seldom preserves it. The army who assisted in his designs ; or, the leaders of it, divide his power ; sometimes assume it, leaving him only the name. The people may be slaves in a despotic state ; but the prince seldom continues the despot. In this case, if I were to select a fact, as the fundamental law ; it would be—that the power impressing fear on all the people, is in the prince's army ; and not, that it is essential to his despotism to chuse a visir.—That indolent and arbitrary princes should divest themselves of offices, requiring attention and trouble, is natural : that they should devolve absolute and capricious power on a single person, may also be natural ; it is a fact, in several despotic states ; but not in all : it is not therefore a fundamental law.

You may consider these objections at your leisure ; I will return to the general subject. (Book iii. Chapter i.) ‘ The nature of government, according to the ingenious author, is that by which it is constituted ; and its principle, that by which it is  
‘ made



‘ made to act. The one is its particular  
 ‘ structure ; and the other, the human pas-  
 ‘ sions which set it in motion.’

A political state, is an artificial body ; constructed on principles similar to those of the natural. The conduct, or morality of individuals, rests immediately on sensibility to pleasure and pain ; and on reflection or judgment, concerning the circumstances which occasion them. The conduct or morality of societies, rests on sensibility of a similar nature ; but hitherto imperfectly formed : and on reflection and judgment in the whole society, called public opinion, concerning the causes of its happiness or misery. To proceed, in the author’s manner—the nature of man, is his frame and constitution ; of which mind, is the principle : and the nature of government, is its form or structure ; and its principle the public mind, the spirit and general passion, and not the human passions that actuate it.

No man can be more sensible than I am, of the importance of distinctions ; but I am also aware of the mischief of multiplying  
 causes.

causes. As materialists see no reason to introduce an extraneous substance into the human frame, to produce its thoughts and operations: so in artificial bodies, the distinction of nature and principle (unless it be that of cause and effect) tends to confound and embarrass those who observe them. A society, in which the people are admitted and instructed to bestow happiness on themselves, will necessarily be actuated by the highest and most ardent affection for the state; which the author calls virtue. To constitute such a society, is to produce a perfect body; which like other bodies will generate its own principle. The measure of this virtue, or public affection, in all deviations from the just constitution of political states, lessens in exact proportion to those deviations; or to the diminution of mens' interest in the transactions of the society.

All governments, despotism excepted, admit degrees of public virtue: and honor in monarchies, is its perversion. The author affirms, ambition is injurious in republics.

Wifely



Wisely constituted, they seem to be the forms of government, in which the greatest variety of honors can be held out to excite ambition. Honor, therefore, seems to be peculiar to republics, justly and judiciously formed. In monarchies, distinctions are conferred at the pleasure of the prince; and are calculated to produce attachment to him, and not to the community. The author is obliged to acknowledge that false honor only is thus excited: but he adds, (Book iii. Chapter vii.) ‘ even false honor ‘ is as useful to the public;’ he should have said to the prince, ‘ as true honor can prove ‘ to private persons.’

Here the evils of metaphysical distinctions again appear. In morals, the business of men differs, as they apprehend knowledge and virtue to be the properties of an extraneous substance, or the result of a particular constitution: so in politics, if the principle be the result of the constitution, the business of the political philosopher, or of the legislator, will be one thing; if the principle be an undefinable spirit, controlling and governing



governing the constitution, the business will be another. The author's system is often involved in the mysticism of the latter opinion. He has inserted abstract ideas, or souls, into different forms of government; and he assigns them the same arbitrary sway, attributed to immaterial beings, over the bodies of men.

The author's friends—and they are here powerful—will alledge the authority of facts; because, in this case, facts wear the appearance of principles. It is true, that passions, produced by the human frame, often govern it; as it is, that the public passion, be it good or evil, produced by the political constitution, often governs that constitution. But, however imperfect language may be on such occasions, it must be a sophist only, who will confound the distinct ideas of principle and passion.

The first principles, in all bodies, natural, moral, and political, is self-preservation and self-enjoyment: the operations of these principles necessarily produce, not passions only, but reason; which, in various degrees  
of

of imperfection, is the general and actuating spirit of all bodies. If the process be stopped, at the formation of partial and violent passions, a state of turbulence and misery may take place; and there seems to be a general effort of the whole frame, to dislodge the passions, which have assumed the authority of principles.

Indolent, or vicious parents, excuse themselves, by alledging the peculiar spirit of a child; and pretending to accommodate all things to that miraculous and occult quality. All vices are thus cherished, by an absurd and wicked education.

If the general doctrine of Montesquieu, in regard to the *spirit* of governments, and the *spirit* of laws, did not in my opinion lead to similar errors and inconveniencies; I should not have pointed it out, in the style of animadversion.

Political, as well as natural bodies, have a disposition to produce a general principle, which may be called public reason: and this reason is good or evil, perfect or imperfect, according to the arrangement of  
parts



parts in the political constitution ; or, according to its organization. It is true, political bodies, the productions of human art, are generally exhibited in uncouth and unfinished forms ; and are actuated by the low and wretched passions, which set them in motion. But though this be fact—though it may possibly be proved, that all the political bodies on earth, are actuated by contemptible passions : no man, pretending to a scientific character, will call those passions *political principles*.

The inconvenience would be—that of Montesquieu's general doctrine—that where passions have assumed the authority of principles, they must be obeyed ; all measures accommodated to them ; and the existence of the state depend on their preservation : as if the existence of an idiot depended on the preservation of his insanity.

Montesquieu guards the principle of moderate virtue in aristocracies, from accession of strength ; that of honor ; and even that of fear, from any amelioration ; with as much anxiety, as he bestows on real virtue, in a popular



popular state: because the forms of political bodies, would be dissolved with the passions which actuate them. His apprehensions on the subject, amount even to superstition.

Constitutions of government are never stationary; but in some of their trifling forms: and it would require only the revolution of a few ages, effectually to change them. But there is necessarily in all societies, a common and universal principle, the desire of preservation, security, and happiness. Communities, under all the fluctuations of particular administrations, are impelled by it, as bodies by gravitation.

The eye of a political philosopher, should be fixed on this certain and universal principle; and all passions assuming the name, should be brought under its influence.

Montesquieu discovers no inclination of the kind. He would perpetuate abuses and miseries, to avoid the violation of forms. He would sacrifice all the possible uses of

an improved machine, to preserve the errors of its first construction.

That I may not appear to cavil, or to bring a charge unsupported, I will produce, from numerous instances of this disposition, in the Spirit of Laws, the following passages.

Book iii. Chapter iii.— ‘ It was a curious spectacle, in the last century, when the English made fruitless efforts to establish a democracy. As those, who had a share in the direction of public affairs, were void of all virtue; as their ambition was inflamed by the success of the most daring of their members (Cromwell); as the spirit of a faction was suppressed, only by that of a succeeding faction; the government was continually changing: the people, amazed at so many revolutions, fought every where for a democracy; but were not able to find it. At last, after a series of tumultuary motions and violent shocks, they were obliged to have recourse to the very government, they had so odiously proscribed.’

This



This he attributes to the sacred influence and power of forms: or to the prevalence of the spirit of monarchy. But the error is the most inexcusable that can be imagined. Not a doubt should be entertained that a republic would have been established in England, with the general consent and approbation of the people; if the method of forming it, had been pointed out, in time, by an intelligent and disinterested patriot. But the people were amused with deceitful plans; and perceiving their leaders sought the unconstitutional power they had abolished, they recurred to the Stuart family, on the familiar and plain principle,—‘that, of two evils, we are to chuse the least.’

He proceeds—‘When Sylla was inclined to restore Rome to her liberty, the unhappy city was *incapable* of receiving it. She had only some feeble remains of virtue; and, as this was every day diminishing, instead of being rouzed out of her lethargy by Cæsar, Tiberius, Caligula, Claudius, Nero, and Domitian; she rivet-



‘ted her chains every day: the blows she  
 ‘struck, were levelled at the tyrants, not  
 ‘the tyranny.’

If an edifice were demolished, either by accident, or time: we should smile at the architect, who should assume merit for leaving the materials to form themselves into a similar structure. The people are to society, as materials to the edifice: and communities are left unfinished, or imperfectly formed, because those who undertake the business purloin the materials, and convert them to private emolument. It is owing to ignorance of the nature of society, men affirm of *any* people, they are incapable of liberty, or incapable of being happy. The general mass of a community, like the mass of any other materials, may be often in a state, not admitting of much reflection or judgment. And they may be seduced out of this state, into inconvenient and miserable situations, by insidious and deceitful proposals. But they must be excited by the prospect or hope of security and happiness: they never lose sight  
 of

of that hope ; and are never reduced into an incapacity of realizing it.

The great difficulty, in such circumstances, is to find honest and disinterested patriots ; who will point out the way, instead of requesting the people to follow them.

When Sylla resigned his power,—wearied with the intrigues and factions of the Roman nobles, who had divided the people into mischievous clans ; it would have been an insult of humanity to mention liberty : as it is of reason, to affirm the people were *incapable* of enjoying it. When a wretch is chained down by institutions, as effectually as by irons,—it is an absurd and malignant perversion of words, as well as of authority—to withhold his enjoyments, under the pretence of his physical incapacity.

The observations of the author on the decline and ruin of Athens, deserve your attention. ‘ Athens was possessed of the same  
‘ number of forces, when she triumphed  
‘ with so much glory, as when she was en-  
‘ flaved with so much infamy.’ He accounts for the difference by the loss of virtue.



Dr. Smith, in the History of the Wealth of Nations, manages the circumstance in favor of military discipline. Philip did not advance against the Athenians, until by deciding contests with little states in the neighborhood, he had effectually disciplined his army.

These opinions may be true ; but they are not stated and explained, to favor the happiness of mankind. In a multitude, so imperfectly arranged, as the Athenians ; the resource of the state was *passion*, more or less violent, according to the circumstances exciting it. They were not arranged to produce reason, judgment, and virtue : they were not susceptible of principles, equally forcible with those actuating the mercenaries of a profligate and ambitious prince. Liberty is susceptible of order, discipline, and system ; in a higher degree of perfection than slavery. Democracies have generally exhibited only the caprices of a rabble. Government founded on the will and *judgment* of a whole people, actually systematized to form a judgment



ment or express a will ; would be the effect of greater science and genius, than could be employed on the discipline of an army ; and have means of security and defence, which no mercenary force could destroy, without extirpating the inhabitants of the country. A friend of mankind, accounting for the destruction of free states by armies, should not hold up to view the advantages of military discipline, without expressing a wish that such political systems might be devised, as to prevent similar events. Nor should a man of genius, seem to adjudge, because ancient democracies have been organized only to produce passion ; that a democracy may not be formed, to exercise faculties analogous to the reason, judgment, and virtue.

## LECTURE IV.

## SPIRIT OF LAWS. BOOK IV.

“ **T**HAT the laws of education ought to  
 “ be relative to the principle of go-  
 “ vernment.”

In cherishing a tendency to doubt and discussion, it is not my design to write satires on Montesquieu: it would be ungrateful; as I owe him obligations, of information and entertainment. If I were to specify and delineate the beauties of the Spirit of Laws, it would not answer my immediate purpose; and might extend the Lectures beyond any convenient limits. Besides, this method of engaging your attention, would not have novelty: for all political writers, since the appearance of his works, have pronounced panegyrics on Montesquieu; and, some have acknowledged they employed themselves, in working up his materials into new forms.

The

The authority of the Spirit of Laws ; and an indistinct remembrance of satisfaction and pleasure in former and hasty perusals—were the reasons for adopting it, as a study. Perhaps, no work can be truly estimated, until it be applied to such purpose.—Where the merits of the Spirit of Laws, are unquestionable, I have an interest to acknowledge them ; for I cannot produce a substitute, in all respects, to answer the end. When the positions are doubtful, I would encourage and instruct you in discussing them: when ill grounded, or fallacious—it is my misfortune—for I am under a necessity, of attempting, to furnish better positions.

You will have the goodness to bear this circumstance in mind ; when you perceive me passing lightly over beauties which, in other circumstances, might engage my principal attention ; and fixing on defects and errors, which perhaps may owe their importance to the character and authority of the writer.



The general proposition of the fourth book, is objectionable ; because the author states as a principle, what is only a fact. The laws of education will, generally, be ; but he uses the word, *doivent*, ought to be, relative to the principles of government.

Truth in the moral, is analogous to health in the natural world. Either may be checked and impeded, in the most favorable circumstances of physical or intellectual constitutions : but there is an unceasing effort, congenial with animation or existence, to restore them when lost ; and when enjoyed, to improve them into perfection.—That a fine lady will sacrifice health, to avoid appearances unsuitable to her station ; and that the laws of education *will be* relative to the passion of her conduct : these are facts, which no man will dispute ; as it is a fact, that the laws of education in monarchies, *will be* relative to the passion of false honor, which actuates them.—But the fact does not establish a principle in political science : and the word used by the author,

is

is not only unguarded and inaccurate ; but extremely pernicious.

To recur to the allusion. It could not escape the penetration of the fair sex, that a certain degree of debility ; a certain delicacy and precariousness of health ; would fix the attention, and call pity to the aid of love. These arts of little minds are successful, and generally practised. It is therefore a maxim in those pernicious institutions, called boarding schools, that a young woman designed for fashionable life ; and all young women are so designed ; must not be in full health. The words *robust* and *masculine* are used to soften the absurdity ; but the meaning of the maxim, is strictly as I have stated it.

Though this be a fact—having the authority of established rules—no man of science will state it as a principle of education.

The inaccuracy is of importance in the case before us : because education, the first duty of life ; the general instrument of knowledge and goodness—is directed by no certain laws.

The

The necessary object of man, in every situation, is happiness. The circumstances conducive to it, health, security, and liberty; are sufficiently understood, to render restraints on them painful and oppressive. As no regulations of fashion and opinion can suppress the desire of health; so in government, no prepossession, custom, or authority, can extinguish the desire of security and liberty.—It is true, these words are subject to various interpretations: and they have generally been invented to favor the injustice of power; not to shelter the disobedience of the people. Even licentiousness, which all tyrants affect to dread, when chaining down the quivering muscles of their wretched slaves,—has ever been the effect of despotism; not of liberty or indulgence.

No philosopher, sincerely in the interests of mankind, would wish to give any thing in government the denomination of principle; which may be the instrument of general injustice and misery.

That



That false honor is the actuating passion of monarchies, may be true ; as folly, or even insanity, may be the actuating impulse of multitudes. In all intercourses with regal power, men may find it their interest to accommodate this passion ; as they may in their connections with the foolish or insane, to accommodate a capricious or impetuous impulse. But we have faculties to distinguish truth from falsehood, as we distinguish health from sickness. And though it be not always practicable to bestow security or liberty on the subjects of an established monarchy ; as it may not, to correct established folly, or to remove confirmed insanity : there will remain in the human heart a desire to effect this purpose ; which no sophistry can confound ; no power can suppress.

Education is the natural guardian of this sacred principle : and where barbarous prepossessions have been meliorated, and iniquitous customs abolished ; education has been the general instrument.

Attempts

Attempts have been made to convert this domestic occupation, into a political employment. And, if it were the ultimate object of every state to preserve its constitution at all events; it would be prudent to submit education to its power. But the object of political states, is the security or happiness of the citizens; the provisions for that purpose, being always hastily and imperfectly arranged—public institutions, like all human inventions, are improveable:—and the principal means of their improvement, are in education.

If it were practicable, to controul and extinguish parental affection, and to consign education to the civil magistrate—the experience and reason of mankind would revolt on considerations of inexpediency.

Modern governments, under all the disadvantages of their forms, have admitted considerable meliorations, from emancipated education. Where peace and tranquillity give access to civilization and knowledge, manners imperceptibly correct the  
incon-



inconveniencies of institutions and laws : and manners arise immediately from education. Monarchies, distantly removed from popular influence, by tolerating domestic instruction, open the avenues of information ; and harbour philosophers, the best and most disinterested friends of mankind. If the instruction of youth had been strictly and scientifically referable to the ruling principles of particular states—would Harrington, Sidney, and Locke have written on government ; or, if Montesquieu had been educated at the Sorbonne, would he have published the Spirit of Laws?—If, only to produce such men—the patriots of modern times—education should be withheld from the grasp of the magistrate.

To avoid the odium of oppressive incroachment, governments have sometimes exchanged power for patronage: and furnished colleges and schools with professors and masters, whose promotion are at the will of the administration.

This is something more than an exchange of terms : and it is countenanced by high pretences



pretences of utility. If you would deliberate on the utility of endowed institutions, consult Dr. Smith's History of the Wealth of Nations, who has treated the subject with ability and candor.

But the idea of settlement, of permanence, or of perpetuity, incident to the inventors of political institutions ; is hostile to the constant agitation, or the innovating spirit which may arise from domestic education. It may be difficult to determine,—‘ whence this  
‘ pleasing hope, this fond desire, this long-  
‘ ing after immortality’—in societies, as in individuals? Nature is perpetually employed in producing, decomposing, and re-producing ; and does not warrant the idea of eternity, where forms and constitutions are concerned. She is economical of materials ; and impresses an opinion of their immutability : but she is lavish of forms ; which are incessantly fluctuating ; dissipated ; renewed ; and blended in indefinite variety.—All science, is formed by lessons from nature ; or, in the language of divines, by an imitation of God. But, in  
the

the present case, we directly oppose the intimations of nature ; or, the will of the creator :—we annex the idea of perpetuity to forms, of which they are incapable ; and would annihilate first principles, which are durable and immortal, as the materials of the universe. In this unnatural and absurd manner, the happiness of society is sacrificed to the security and permanence of institutions and systems ; intended, or said to be intended, to procure that happiness.

Men will never make considerable advances in the science of government, until they imitate nature in regard to forms ; and particularly in sacred attentions to principles. No cause occurs to my memory, so unfavorable to human happiness, as erroneous attachment to systematic instruments of misery. Persons employed in directing the awkward operations of a mischievous machine, may have, or may think they have an interest in preserving it ; as a better, might be committed into other hands : they who feel its inconveniencies, are artfully induced, to dread imaginary consequences  
of



of its decomposition : nay, real difficulties may arise, from the necessity of violently dispossessing them of mischievous privileges. And as men, in the habits of modern societies are more disposed to *endure*, than to *commit* injuries ; and rather to ‘ bear the ills they ‘ have, than fly to others which they know ‘ not of :’—abuses are continued until, in obedience to an immutable law of nature, forms and constitutions are annihilated, by the extinction or destruction of the people.

Our author, therefore, as an advocate for the permanence and perpetuity of forms or political constitutions, is as unscientific, as he is inimical to the interests and happiness of mankind.

I submit, to your attentive consideration, these general objections to the opinion of Montesquieu,—that education, instead of having the health, knowledge, and virtue of individuals as its objects ; and qualifying them to have *judgment* and *will* in the parts they are designed to act : should be the instrument of power to construct them into forms, and to insert  
them



them in imperfect, useless, or mischievous institutions.

Every attentive reader of the book under consideration, must perceive the actuating passion of monarchy, is justly and beautifully described ; and if he had not required my respect to it as a principle—my admiration of the author's talents would have been unalloyed.

I pass over the short chapter on despotic government—where fear necessarily arises, among menaces and punishments. His sentiments on education ; as on every thing relating to republics—are vague, though brilliant ; pointed, but contradictory.

He introduces those sentiments with a panegyric (Book iv. Chapter iv.) ‘ most of  
‘ the ancients lived under governments,  
‘ which had virtue for their principle ; and  
‘ when that virtue was in its vigor, they per-  
‘ formed things never beheld in our times ;  
‘ and which would astonish our little souls.’

—In the next chapter, considering the subject of education, he affirms, ‘ it is  
‘ in a republican government, that the

‘ *whole power* of education is *required*. The  
 ‘ fear of despotic government arises of it-  
 ‘ self, amidst menaces and chastisements ;  
 ‘ the honor of monarchies, is favored by  
 ‘ them in its turn : but political virtue, is a  
 ‘ renunciation of one’s self ; which is always  
 ‘ *a very painful thing !*’

It seems extraordinary, any man should imagine the greatest and most useful actions, must arise from unnatural and forced situations. Montesquieu does not generally discover any such opinion of republics. His heart seems to struggle with his prudence, when they are mentioned ; though his conceptions never pass beyond the facts and examples of history. In the first book, he defines the nature of democracy, arising from the right of suffrage and legislation in the people. These are the circumstances, which give the people an interest in the country, and produce public spirit ; unknown under any other form of government. It is true, the member of democracy—acts immediately for the community, and receives his reward in the participation of  
 general



general happiness ; and the subject of monarchy acts immediately for himself, and is rewarded by selfish gratification. But who would put these rewards in competition ? Or why education should be practicable ; and the proper passion arise naturally and spontaneously in a monarchy, and not in a republic or democracy—I do not understand. In the one as in the other, the cause is perfectly competent.

The difference of honor and public spirit, is that of avarice and benevolence : and the motives or principles of the latter, are equally natural, and easily excited or cultivated, as those of the former.

He says, in modern times, we receive three kinds of education—from our parents ; our masters ; and the world : and we experience a contradiction, unknown to the ancients, that of religious and civil engagements.—I cannot perceive we have more than two kinds of education—the first by parents and masters, for a future state : the other by the world, for present interests. As the author is particularly fond



of benefits arising from evils, I am surprized it escaped his notice; that virtues in modern times, arise from this absurdity. In preparing children for another world, instructors have formed their consciences on permanent principles; and given them a species of integrity, which they have not relinquished with their faith, and which no events have corrupted. The history of England furnishes instances of this integrity. Puritans and other religious sectaries engendered by them, have been thus distinguished; and it is not easy to estimate the evils they have prevented.

But on subjects so extensive and important, I can only furnish hints. You must be at the trouble of forming them into questions; and consulting the authorities to which I refer. I presume to contend with Montesquieu for your encouragement; not my own gratification. But I have no objection to the triumph of his advocates; if it be effected by argument and eloquence.

I have no further observations on the general proposition of the fourth book.—

There

There are incidental hints, which I hope will not escape your attention. The government of Lacedemon, introduced by Lycurgus, is often the subject of praise ; and sometimes, mentioned as popular. It was a military aristocracy, the most despotic, and odious. The Spartans constituted a standing army ; to which the Helotes, the labourers and artisans of the country, were slaves. The institutions of Lycurgus have nothing wonderful compared with the regulations of modern armies ; which differ from the Lacedemonian in the different provisions for their support : the Lacedemonians having portions of land, and modern foldiers, being paid in money. This is a charming subject of discussion : and the materials are profusely scattered by Plato, Xenophon, Plutarch, and Rousseau.

Montesquieu mentions Mr. Penn, as the modern Lycurgus ; in a manner more to the credit of his heart, than of the accuracy of his knowledge.

Peruse the History of the Settlement of Pennsylvania ; and confide not even in Mon-



tesquieu. Mr. Penn was not actuated by the views which the author ascribes to him. He obtained the permission of settlement for persecuted sectaries; to whose prejudices and passions he adapted regulations and forms of government: and he might as properly be compared to Julius Cæsar as to Lycurgus.



## LECTURE V.

## SPIRIT OF LAWS. BOOK V.

“ **T**HAT the laws given by the legislator, ought to be relative to the principle of government.”

The word legislator here, does not refer to the power of forming laws for the purposes of civil order ; but to that which constitutes the government. In that sense, Lycurgus and Solon, were legislators : they arranged political constitutions, and introduced fundamental laws.—It seems, therefore, unnecessary to declare, those laws ought to be referrable to the principles of the government which they actually constitute ; whose principles they form : as it would be, that the laws determining the construction of an instrument, should be referrable to the species of music it is calculated to produce.

The scattered observations in this book, however, are of great value.

Chapter ii. Of political virtue, the author says, in republics, it is a sentiment, and not the effect of experience. If sentiment be any thing beyond sensation, the author means to involve his readers in the obscurities of philosophic mysticism. Writers of novels and metaphysical divines, have denominated passions and principles, which are prompt and rapid in their determinations, occult qualities; and sunk their origin in obscurity.

Sentiment is the sensibility of our reflecting powers, when formed by experience and knowledge: it differs from judgment, by instantly determining the analogy of impressions; and it depends on the delicacy of intellectual organization.

The power of discriminating matters of grave and important concern, by attention and examination,—we call judgment; that by which we immediately adopt or repel the effects of delicate passions, we call sentiment.—If sentiment be not an occult quality;



lity ; if, like all the faculties of the human mind, it be the result of experiment and knowledge ; one part of the definition, contradicts the other. This would not be important, if the author's account of political virtue, in republics, had not an injurious tendency. We wait for occult qualities, with hands folded ; as we would for miracles : but passions, whose origin is in our knowledge and power, we may produce, modify, and direct.

He seems also to associate patriotic virtue, with the passion of monks for their order. And this is done, by one of those beautiful and fascinating paradoxes, which so often mislead in the Spirit of Laws.

I think it necessary to observe, where the author has annexed ideas of patriotic and popular virtue to antient republics, I, by no means, acquiesce in the opinion. The ancient republics were aristocracies or oligarchies ; generally of imperfect and vicious construction. The people were analogous in every circumstance but property, to the idle and warlike nobles of Europe.

The



The greater number of the inhabitants of ancient republics were slaves to the rabble, denominated people: and the struggles and commotions of that species of people had always a reference to the privileges of the order; never to general happiness. Until I have occasion fully to explain the subject, I beg I may be generally understood, to use the terms democracy, republic, &c. in the sense of the author.

We must return to the affinity of patriotic and monkish virtue.

Chapter ii. ‘The less we are able to satisfy  
 ‘ our particular passions, the more we abandon ourselves to those of a general nature.  
 ‘ What is the reason, that monks are so fond  
 ‘ of their order? It is owing to the very circumstance, which renders it *insupportable* to  
 ‘ them. This rule deprives them of all those  
 ‘ things, on which the ordinary passions are  
 ‘ fixed: there remains only that passion for  
 ‘ the very rule that afflicts them. The more  
 ‘ austere it is, viz. the more it restrains their  
 ‘ inclinations; the more force it gives, to  
 ‘ those it leaves them.’

If,

If, in accounting for patriotic virtue founded on self-denial, the author had recurred to the general law of nature, that pleasure may be heightened by pain ; his deductions would have had good effects. That great virtues and great pleasures, are procured by laborious exertions and self-denial—is true ;—and the ardor and enthusiasm of patriotic affections may be accounted for in some degree on this principle : but, the spirit of the order, with which monks are inspired ; though created by a law in some respects, similar ; was not a passion to be mentioned with patriotic love : unless the author had expressly confined his allusions to the republics of antiquity ; where the people formed a distinct and privileged class, in which all affections denominated patriotic, were centered. Every man in the community is included in the genuine affection of patriotism : and all definitions limiting it to classes and objects, are false or sophistical.

The spirit of the order in monks, is accounted for by the author with great plausibility ; perhaps with truth. The mind  
will



will fly from painful objects, and direct its force in channels, where any satisfaction may be obtained. But the love of our country does not preclude private gratification; and the exercise of self-denial, to secure, to heighten, and to multiply enjoyment, has nothing in common with the painful austerities of monastic life.

When Montesquieu affirms, Chapter iii.  
 ‘ the love of the republic in a democracy, is  
 ‘ the love of the democracy; and the love  
 ‘ of the democracy, is that of equality’—he is right respecting the pretended democracies of antiquity; where power was the object of privileged orders. But equality cannot take place, in a pure and rational government, comprehending the interests and consulting the happiness of all the inhabitants of the state. It is the reproach of antient wisdom that, in governments pretended to be free, no methods were devised to render the inequalities, arising from real talents and virtues, the means of multiplying political advantages. Beauty and utility in nature, arise generally from inequality: and all sciences



ences are imitations of the dispositions of nature.

To you, the difference may appear little, between the love of a particular constitution, from the participation of power ; and the love of the republic, from the participation of happiness, to which every man contributes according to his abilities. But the most dangerous errors are those nearly resembling truth ; and slight original distinctions often produce opposite and contradictory consequences.

I therefore wish you would accurately ascertain the true republican principle ; the genuine affection for a country : and distinguish it from passions of similar pretensions which have actuated the ruling classes of ancient and modern states, denominated republics.

‘ Montesquieu says, riches give a power,  
 ‘ which a citizen, in a democracy, cannot  
 ‘ use for himself ; for then, he would be no  
 ‘ longer equal : they likewise procure pleasures,  
 ‘ which he ought not to enjoy, because  
 ‘ these would also subvert the equality.’

This

This idea of danger from the riches and power of successful citizens, rendered the democracies of antiquity, as despotic and inimical to the progress of great talents, as the government of single persons. Hardly any gradations of power are perceptible, from the fortunate general who might subvert the state, to the simple citizen or soldier who had been in the habit of obeying his commands: and it was owing to confirmed and inveterate prepossessions, on the favorite subject of equality.

The legislators of antiquity, before they provided for that equality, should have maturely considered its nature. A proposal to render men of equal height, or to make them weigh an equal number of grains; would be as rational and useful, as that of confining their fortunes and powers in equal limits. Advocates might argue in its behalf, as effectually as the politicians of antiquity, for civil and political equality. They might affirm, for it would only be against facts; it could not have been in the œconomy of nature, to form one man taller  
and



and stronger than another ; it is destroying uniformity ; it is laying the foundation of unequal contests, when injustice and injury must ensue : and—in short, all the evils of life might be ascribed to these inequalities, in form, size, and strength. It was probably a design to correct such imaginary errors of nature, that gave rise to the fable of the bed of Procrustes ; not more irrational, or inhuman, than the division of lands by Lycurgus and Romulus ; or the Agrarian laws, with which wild imaginations have disturbed the public peace. I do not mean such divisions may not be necessary and just, at the institution of communities. But the moment talents and industry are exercised on each portion, all ideas of equality should be lost ; and it must be the purpose of civil and political institutions, to administer equal justice and equal encouragement to equal exertions, actions, and talents ; and not to persons, or portions of land. If it were possible to fix property and power ; universal torpor would seize the community. Military pursuits prevented that effect



effect in Lacedemon. And I wish the young gentlemen enlisted against me, would enquire what talents or virtues were exercised in Lacedemon, besides those incident to a camp?

Political equality, cannot refer to situations, fortunes, or talents—but to claims of protection from injury; and of security in the full and useful exercise of abilities. I have observed, if a state were to be formed, all men should start from equal situations and with equal advantages; as horses do on the turf: afterwards every thing is to depend on agility and merit. The only idea of equality remaining, is a right to the same justice; but not, in succeeding courses and revolutions, to go off repeatedly from the same points, and with the same advantages.

It may be imagined, by denying the necessity of equal portions rendered permanent by political provisions, I take away the right of suffrage; which I have allowed to be essential to liberty.—I use the word right; not because it conveys my idea, or  
that

that I approve it ; but I should not be always so intelligible, if I were to substitute another.

The power of appointing governors by suffrages, does not imply or require an equality in personal consideration, or in property.—It is founded in the reasonableness of having a choice, where appointments may restrain our public actions, and dispose of our property and lives. All men, on such occasions, should be considered as equal, and entitled strictly to equal consideration : for all commit all into the hands of government. The property and talents of individuals may be unequal ; and private advantages or disadvantages arise from them : but in all intercourses of the community with government, every citizen is equally an unit ; and every violation of this equality, whatever the state be denominated, is an approach to despotism. The error which deterred the ancients from proceeding in the science of government ; and which the moderns have suffered to destroy their best constitutions—has arisen, from blending civil and political prin-



ciples. In the intercourses of citizens, the inequalities of talents and fortune produce their full effects. And it may have appeared difficult, to avoid transferring these effects into political arrangements; they are generally transferred by caprice and arbitrary folly. It seems to be the object of politicians, to multiply the first conveniencies or inconveniencies of unequal talents, in order to destroy all talents. Though men may not be naturally equal; though they may not be entitled to equal consideration as citizens:—when political arrangements are made, all must be placed as at the starting post; or the inequalities of civil, will be transferred unjustly into political life. This political equality ceases, the moment the suffrages are given: but it is reasonable, it is necessary, and therefore it is called a right;—when citizens mean to draw out talents for their service; that an appeal should be made to the experience of private life; that a moment of equality should take place; in order to transfer by a fair and public judgment, the inequalities of civil  
 into



into political society. The spirit and soul of liberty is inequality, and not equality : and politicians, who have thought otherwise, seem like navigators, who imagined voyages impracticable, but on the smooth surfaces of rivers, or in the calm recesses of lakes and bays.

Though a warm and devoted admirer of liberty—I readily allow, men are not equal by nature ; that they are not equal in civil or political society : but to reconcile that inequality with private and public justice ; to render that justice conducive to the utmost variety of happiness ; to draw out all talents for all possible purposes—there are points or occasions in which a temporary equality must take place ; or confusion, injury, and tyranny will ensue. All children at their birth, should be treated with equal care ; though not of equal value. This may be called ; and indeed it seems to be, the only state of natural equality. In civil adjudications, all men should have the same consideration and attention, until the variations of their

merits, or demerits appear:—and this is their state of civil equality. In the original arrangements of government; or in those repeated and general acts of the community which require the suffrages of all its members; differences and inequalities of men, either by nature, or by the accidents and intercourses of civil society, must be suspended—all must be treated as equal; until the suffrages determine a state of political inequality.

The author seems to countenance these conclusions, Chapter vi, by allowing, ‘when  
 ‘ a democracy is founded on commerce,  
 ‘ private persons may acquire great riches,  
 ‘ without corruption of morals.’ I hope you will consider the subject with great attention. It is the most important in political science. I am not desirous any student should adopt my opinions: but I will not patiently hear hasty effusions, or peruse slovenly compositions; on a question requiring profound thought and extensive reading.

I shall



I shall only observe, the prepossession of Montesquieu in favor of monarchy, obtains his sanction to a common, but erroneous opinion.

Chapter x. ‘ Great is the advantage  
 ‘ which a monarchy has over a republic: as  
 ‘ the state is conducted by a single person,  
 ‘ the executive power is thereby enabled to  
 ‘ act with greater expedition.’

If you should be inclined to render the opinion a question, you will find it ably supported by Isocrates.

The difference of monarchy and republic, as they actually exist, I would take in the following manner, — the prince in a monarchy, acts for himself and from his own will; under the restriction of some forms:—in republics, the parts of the political body are so awkwardly arranged, that no general motion can be obtained, without continued and tedious efforts. The former is a head harrassing the members under its command; the latter an uncooth unmanageable body, without a head. It would



require no great wisdom, to create the intricate political being. That has been attempted in England: but with what success, we shall see, in the proper place.

## LECTURE VI.

## SPIRIT OF LAWS. Book VI.

“ CONSEQUENCES of the principles  
 “ of the different governments, with  
 “ respect to the simplicity of civil and cri-  
 “ minal laws; the forms of judgment; and  
 “ the punishment of offenders.”

As a detail of facts, this book does honor to the discernment and humanity of the writer. If the general idea of the work were properly grounded, that political bodies are actuated by certain principles or spirits derived from nature, not generated by organization—the operations of those principles or spirits might be formed into maxims of great utility and entertainment. But when doubts are expressed, of similar pretensions in natural bodies, who have long been honored as the habitations of immortal spirits—it is not wonderful we should insist on the evidence of such principles, in those

which are artificial ; or constructed by human talents.

The gradations from liberty to slavery, where the present subject is concerned, and where history affords information, are justly and distinctly marked. Punishments inflicted by furies surrounding the throne of despotism ; moderated by customs and arbitrary privileges in monarchies ; administered by fixed laws in republics ; and decreed by caprice and violence in tumultuary democracies : form a circle, where the legislation of mankind has moved in all periods with which we are acquainted.

It may not be an useless examination, whether the circle be enchanted ; and whether the administration of civil and criminal justice be susceptible of philosophical principles.

If it be said, by introducing ideas, not the produce of political bodies actually existing, I adopt abstractions and spiritualities ; different indeed, but exceptible as those to which I have objected—I answer—scientific principles may be ascer-



ascertained ; though it may not be proved, they have ever been accurately reduced to practice. Men made numerous efforts, in joining awkward and angular timber, before they formed a wheel ; which corresponded with the idea they had conceived of a circle. In that case, they were actuated by an abstraction they had never produced : and yet every circle must be the effect of the materials which compose it.

This is precisely the difference of scientific principles, and actual forms ; whether in material or intellectual machinery. By experiments we obtain ideas : not only of facts, but of certain immovable points beyond them ; towards which we incessantly urge invention ; and without which, industry and ambition would subside, or be annihilated.

If the supposed want of materiality, in these principles, be alledged as presumptions of their fallacy—the objection must go further than politics and morals—to all sciences—nay, to all the arts employed on gross and palpable substances.

But

But it is not my business to ascertain the origin and reality of scientific principles. I claim for morality and political œconomy, the privilege and advantage of general principles allowed to other sciences ; and even to the arts. If the efforts of an artificer to remove the defects of a wheel, be justifiable on the general conception of a circle, which he has never been able to execute ; those of philosophic politicians are commendable who use the facts of history ; not as maxims to perpetuate abuses ; but as experiments to ascertain and introduce general principles.

The observations of Montesquieu, on the simplicity of civil and criminal laws, are often fallacious and pregnant with injury. He attributes simplicity to despotism ; which of all forms of government is the least susceptible of it : and he is neither justified by fact, nor warranted by possibility. Decisions must be as variable, as the dispositions of all the pachas and governors of enslaved provinces. General dejection and silence prevent the public knowledge  
of



of these variations ; and the prompt rapidity of random violence, gives it the appearance of simplicity of action.

I should imagine the excellence of civil and criminal laws to be—their simplicity—an unexceptionable mode of forming judgments on them—and a just allotment of time, trouble, and expence in obtaining those judgments.

The civil and criminal jurisprudence of monarchies, seems to be tolerable, only as the customs and privileges approach these general rules.

These customs are necessary to prevent an evil the author deems incurable ; the corruption of men by the laws enacted for their advantage.

In the second Chapter, he affirms of the best species of government, ‘ if we examine the  
 ‘ regular forms of justice, in respect to the  
 ‘ trouble the subject undergoes in recovering his property, or in obtaining satisfaction for an injury or affront, we shall find,  
 ‘ them, doubtless, too many ; but if we  
 ‘ consider them in the relation they bear  
 ‘ to



‘ to the liberty and security of the subject,  
 ‘ we shall often find them too few ; and we  
 ‘ shall be convinced, that the trouble, ex-  
 ‘ pence, delays, and even the very dangers  
 ‘ of our judiciary proceedings, are the price  
 ‘ that every citizen pays for his liberty.’

‘ In republics, it is plain, at least  
 ‘ as many formalities are necessary as in  
 ‘ monarchies. In both governments, they  
 ‘ increase in proportion to the value which  
 ‘ is set on the honor, fortune, liberty, and  
 ‘ life of the subject.’

The sophistry of these passages, is so much  
 in the stile and to the purpose of lawyers,  
 that it is not wonderful references are  
 perpetually made to them. Not to waste  
 your time in separating expressions, which  
 are subject to double meanings, and  
 have a tendency to mislead — it may  
 be affirmed in general, when a com-  
 plicated apparatus is applied indiscrimi-  
 nately to great and little designs, it must  
 be from weak or wicked motives. The law’s  
 delay, for the purposes of deliberation, is  
 of utility : but when forms and diffi-  
 culties

culties are multiplied, beyond any possible benefit from the decision to be procured—they become the most insidious and oppressive species of tyranny.

A circumstance may properly be mentioned here, little attended to in modern legislation.

Men educated to the law, accustomed to public speaking, pertinacious in the pursuit of objects, and flexible in their talents and consciencies, are thought fit instruments by leaders of political parties ; and introduced into legislative assemblies, in the face of a general and acknowledged maxim—  
 ‘ those who may be interested in the execution of laws, should have no influence on  
 ‘ their formation’. Modern statutes are contrived for the benefit of lawyers ; not of the community, where they are generally abhorred.

The first object of all institutions should be simplicity ; and the power of effecting particular purposes in the least time, with the least inconvenience.

The



The difference between a club and the human arm, a sophist might alledge to be that of simple and complicated levers. The apparatus annexed to the latter, being adapted to its uses, does not affect the simplicity and certainty of its general actions; and gives rapidity and variety to operations, which could not be obtained by any lever depending on a single muscle, or a single ligament.

On the manner of forming judgments, Chapter iii, iv, and v. his objections are in general true. I think it necessary, to take notice of the following passage, Chapter iii. ‘ In England, the jury determine whether the fact, brought under their cognizance, be proved or not: if it be proved, the judge pronounces the punishment inflicted by the law for such a particular fact, and for this, he needs only open his eyes.’

The contentions of parties—in a period of our history too well known to require description; too dishonorable and unfortunate to be overlooked—have thrown obscurities



scurities over this subject. A judge who may be distinguished, if remembered by posterity, for successful and brilliant sophistry not for solid and useful wisdom—has divided the original idea of fact; which implied the intention and injury, as well as the mechanical action.

Thus a man, pressed in a crowd, putting his hand in the pocket of another when he intended to take a handkerchief out of his own—if he should discover his mistake and return the handkerchief—is not guilty of the felonious fact, according to the customary and legal construction of the word: and the jury could not find *the fact*. The lawyer to whom I allude, has tried to establish a different mode of construction—by which such a man must be found guilty of the fact; without regard to the felony: the decision of which he maintained to be in the breast of the judge.

His authority has not given credit to the innovation: and it is hoped, every idea of it will sink into the grave with him.

Chapter

Chapter xvi. Very little can be said, on the proportion of punishments and crimes, after the accurate and excellent *Becaria* ; who has fully considered the observations of the author. The despotism of single persons, or of democratic multitudes, blends all offence, under one atrocious idea, an unpardonable affront to unlimited power. As governments have admitted the regulations of political and civil liberty, they have observed something like proportion of punishments and crimes. That the proportion may be accurately and scientifically adjusted, and at the same time rendered practicable to the civil magistrate ; does not seem probable, if any consideration, beyond actual injury be the object of attention. Thoughts and intentions are not matters of calculation and measure ; and they are to be enquired into, only that crimes may be distinguished from events denominated accidents.

A great degree of accuracy might be obtained in adjusting the proportion, if the  
attention



attention of the legislator, and the magistrate were confined to actual injuries from crimes. Our Saxon ancestors have given rude, but sensible, lessons on the subject; in attempts to estimate injuries, and the value of lives. If we had applied scientific principles to their criminal code, as we have to civil regulations; we should have left no important grounds of disputation on punishments and crimes.

They had an indistinct idea, of a principle in criminal jurisprudence — that a citizen can never forfeit more than he receives from society; and that the magistrate should, on no occasion, condemn him to death. The power of parents, in some communities, extended to life; because they were deemed the authors of it: and in all, men are authorized to take away the lives of those who attempt to kill them. But the authority of the civil magistrate, strictly and properly considered, does not extend to the direct disposal of life. The utmost blessing so-



ciety can bestow, is political and civil liberty: and the utmost punishment, should be the forfeiture of that liberty.

LECTURE

## LECTURE VII.

## SPIRIT OF LAWS. BOOK VII.

*Of Luxury.*

ON this subject, all enquirers seem to have found insuperable difficulties ; because they have not agreed on a definition of luxury. The ancients, who annexed all ideas of liberty and happiness to exact equality in the condition of citizens, considered luxury excess irregularity and profligacy, synonymous. Modern writers on political œconomy, among whom our author is distinguished, maintain that in some communities and under some forms of government, prosperity is increased by luxury ; whatever effect it may have on liberty. They have not assumed courage to give prosperity the denomination of happiness. They affirm, the division of labor into so many mi-

nute parts, as to simplify the various motions of the human machine and to suppress the exercise of intelligence and design in the mass of the people—is the mode of attaining superior skill in manufactures or the arts, and to give nations relative advantages of wealth and power.

This may be true ; as it is, that despotic princes, who can instantaneously command the services of the people, have advantages over republics in the operations of war. But wealth and power in the hands of merchants or mercantile governments, would not atone for the degradation of the greater part of the community into unconscious parts of general machines.

Luxury does not appear reprehensible on the ideas of the ancients ; or justifiable on those of the moderns. The ancients, however, erred excusably. The first care of the community should be political arrangement ; as it is in navigation, that the vessel be constructed before its lading be adjusted or its destination settled. When the people are reduced to slavery, civil or commercial,



mercial, by mechanic and habitual dependence on taskmasters ; the wealth of the community is of little consequence or of little value to all its members ; and the luxury it introduces, effects the general ruin.

The jealousy of the ancients was commendable. They wished to secure liberty, whatever became of manufactures and the arts. The moderns would obtain wealth ; at any hazard to political constitutions. The former sometimes produced despotism, by adhering to prejudices on the equality of citizens : the latter always produce it in complicated and oppressive forms ; by arbitrary inequalities, and by divisions of labor, which degrade the general mass of the community below the condition of brutes.

Luxury in states wisely constituted, would arise from inequality of talents and fortunes ; admitting equality or the general idea of equality of enjoyment. I mean by states wisely constituted, communities in which the legislative and executive powers are the instruments not the arbiters of liberty.

In such states, luxury may prevail with security and advantage; if luxury be defined, all equitable enjoyment beyond the requisitions of physical necessity. In political, as in natural bodies—ill constructed and disordered constitutions, admit of tumultuous and pleasurable excesses, which hasten their dissolution: while constitutions well formed, and preserved in health and vigor, admit the utmost variety of exquisite pleasures without danger or injury.

If we could acquiesce in the author's decisions, concerning those states which may or may not admit of luxury; we should consider them as disordered in various ways.

In some cases, skilful physicians order their patients to abstain from all nutritive and pleasant aliments. These have analogies to the condition of ancient republics; so rudely and imperfectly formed, that slight agitations from fermenting materials brought on their dissolution. Other cases require a species of intemperance; to fan the vital flame, in constitutions which that intemperance is daily consuming.



confuming. This may be analogous to luxury in a monarchy.—And there may be cases, in which disorders, like despotic governments, extinguish every ray of hope at the moment of their appearance. The advice of the physician and political philosopher will be, *carpe diem* ; ‘ seize every momentary  
 ‘ enjoyment ; for you can have no depend-  
 ‘ ance on any thing out of your immediate  
 ‘ power.’

But expedients are not principles. If, in reading a course of medicinal lectures, a professor were to display his eloquence on the instances, in which he had found it prudent to check and forbid innocent and salutary gratifications, or to connive at exceptionable irregularities—he might furnish hints and lessons for practitioners in similar situations : but he would hardly be supposed to decide on the general proposition, that all use of food is good or evil according to particular circumstances ; and that temperance or intemperance are merely relative to the cases and constitutions of patients.



The difficulty of distinguishing relative ideas and fixed principles, involves the subject of luxury in obscurity. Men are so constituted, that certain productions called food are necessary to existence, and contribute to enjoyment. Some periods in the lives of individuals may occur, in which this general truth is doubtful or contradicted. These periods are so few and short, that they can hardly be deemed exceptions to general rules. It is therefore an absolute and universal truth, that food is necessary to existence and enjoyment. And yet, a sophist may say, where a single exception arises, every thing becomes relative. It is his interest to involve subjects in the uncertainties of indefinite and imaginary variations.

It is so in morals ; it is so in politics—where the imperfection of human intelligence can hardly form general data, not liable to exceptions.

It will be said, a state wisely constituted, like a man in perfect health, is a mere idea.  
I hope

I hope such ideas will not be treated lightly in this society.—As in grammar, all construction depends on absolute rules, and specific allowances are made for specific exceptions: so, in politics, we must refer to absolute principles, which may be only scientific ideas; and allow for particular and specific exceptions.

If luxury be defined; as I think it ought to be; all equitable enjoyment beyond the boundaries of physical necessity—it may be absolutely pronounced a blessing: and it should be the object of every community to improve and perfect the capacity of indulging it.

If luxury be the excess and disorder of particular constitutions—it is an evil, having temporary and relative advantages; which it may be prudent to manage with attention and care.

The author is of the latter opinion. I am inclined to the former.—This may be of advantage to your enquiries; which, I hope, you will conduct impartially.—Having clear, distinct, and general ideas of the principles  
of

of government in the abstract ; as I have of geometry ; or of grammar—though I cannot produce a perfect government, perfect sphere, or perfect language, I can point out their defects, by referring to indisputable principles.

In states, where the great parts or limbs of the constitution enjoy political ; and the citizens, civil liberty—inequalities of talents and fortunes must arise in indefinite succession and variety. The power attending wealth and superior talents, being guarded by justice, brings the man who possesses them and those who assist him by labor and service, very near an equality of enjoyment. If the care of riches and the contrivances to dispose of them, be balanced against the idea of not possessing them : and if the pleasure of inventing modes of beneficence, be compared with that of effecting them ; the condition of the good master and good servant will be reduced so nearly to a level, that it may require something besides discernment to perceive the difference. Where inequality is accompanied with injustice, it



is often a problem, whether the oppressors or the oppressed be the most miserable. In proportion to the degrees of justice equity and beneficence, which men introduce into their connections; inequality of fortunes and talents generates a tendency to inequality of enjoyments; while it improves their nature, and multiplies their number.

The free states; particularly the democracies of antiquity, stood always quivering on points. An exact equality of fortune, of talents, and of reputation, was necessary to internal security and peace; while external circumstances required politicians and generals who had high degrees of influence and authority over their fellow citizens. The ancients never attempted to reconcile political equality with civil inequality; or to arrange the citizens into regular and animated bodies, which in atoms constituting the brain and those forming the extremity of the nail, would be politically equal, though distinguished by particular offices; and would be impelled and actuated by a general force, directing each

to

to its end, without impressing a sense of partiality or injury. In forming political machines, they did not consider the different principles applicable to animate and inanimate materials. They arranged men, as they arranged timber and stones; and slight impressions on the fabric, endangered its existence.

With such conceptions, they judged rightly that luxury must be banished democracies: for every man having his space allotted, whatever induced him to extend the limits, incommoded the whole state. For similar reasons, it should be banished aristocracies, where the nobles constitute a species of democracy. And monarchies alone admit of luxury.

The author's observations on the circumstances, rendering sumptuary laws expedient or inexpedient; on public continence; on the condition of women in different governments; the variations in the Roman institutions; on guardianships; dowries, &c. are so pertinent and so entertaining, that I can only recommend them to your perusal.

B. it

But if any gentleman should discover occasions of doubt, or discussion, I shall be happy to hear his observations.

**LECTURE**



## LECTURE VIII.

## SPIRIT OF LAWS. BOOK VIII.

“ **T**HE corruption of each government,  
 “ begins in that of its principle.”

Whatever latitude we may perceive, for variety of opinion on the subject of this book, it can be of no utility to take the advantage. Whether disorders do or do not commence in the principle of life, in bodies natural and political; it must affect or extinguish that principle to injure or destroy them.

It is the art of introducing brilliant and pointed maxims on all subjects, which distinguishes Montesquieu; and sometimes renders trifling details as dangerous as they are entertaining.

If we acquiesce in the determination of the author, that the spirit of democracy is that of equality; because it was the spirit of particular democracies in antiquity—he is happy in expressing his idea of its corruption

ruption as a spirit of extreme equality.—  
 This is the case, when all the citizens wish  
 to be on a level with those they have chosen  
 to command them. Chapter ii. ‘ Then the  
 ‘ people, incapable of bearing the very  
 ‘ power they have delegated, want to do  
 ‘ every thing of themselves ; to debate for  
 ‘ the senate ; to execute the laws for the  
 ‘ magistrates ; and to strip the judges of  
 ‘ th ir offices.’

The great difficulty in the construction of  
 free states, is that of organizing the mul-  
 titude ; and constituting the regulated and  
 political power of the people. The world  
 has ever been of one opinion, on the first  
 theoretic principle of government. The  
 enthusiastic admirer of ancient liberty ; and  
 the sophistical advocate of despotism, agree—  
 in referring political power to the united  
 mass of the people. The former would  
 bring the multitude into action, undiscip-  
 lined and unarranged ; the latter would con-  
 centrate their power in an individual : the  
 most extravagant claim of despotism never  
 exceeding that of making the prince the  
 depositary

depository of the force and happiness of the nation. Mr. Hobbes supports the expediency of absolute power, on the idea of representation ; the whole community having no effectual mode of thinking and acting, but by consigning those privileges to the chief magistrate.

That the people composing a state, cannot collectively perform the particular offices necessary to its prosperity ; is too evident to admit of disquisition : as it is, that the whole of the human body cannot perform the operations adapted to the finger or the hand. But that political or civil power should be so connected with this general mass, as to be influenced by the general sympathy of the political constitution—is as evident, as that the head or the arm should be connected with the body, and have their motions and actions controlled by its general sympathy. How to animate the mass of the people ; how to furnish it with limbs and members, which shall have particular portions of activity and power ; how to connect those members with the body ; and to  
subject



subject them to a control, not impeding their action and utility?—These are the great problems in the science of government: and I offer them to you, not as matters of light debate and flimzy eloquence; but as subjects of intense study and profound enquiries.

Our author, never approaches them, but in the manner of travellers on public roads. His maxims are therefore delusive. For it is not necessary a proposition should be impracticable, because history does not furnish an example. What Montesquieu says of the disposition of the people to extreme equality; should be confined to the facts of antiquity; and not imagined to prove any thing against the possibility of constructing a political body, which will control its members without impeding their particular offices.

The little democracies of antiquity, acted in awkward masses; and were hardly ever combined into forms bearing the rudest analogy to animated bodies.

The author's observations on aristocracies and monarchies, would be just—

if the general position in the present book were not doubtful. In stating effects of the integrity or corruption of political principles, Chapter xi, he contradicts his own doctrine. ‘ There are very few laws  
 ‘ not good, while the state retains its principles. And I may apply what Epicurus  
 ‘ says of riches,’ “ It is not the liquor,  
 “ but the vessel that is corrupted.” Here he confounds two ideas ; which in the first book he has earnestly requested his readers to keep distinct ; the idea of the nature, and that of the principle of government. If I could obtain a government wisely formed or constructed, I should have no apprehension concerning its principle : as I should trust the soul of my child could not be feeble and corrupt in a body justly and excellently organized. Though I seize the analogy of the vessel and its liquor ; it is to detect the deception, not to controvert the general doctrine. The author does not always think it unworthy of his genius, when the consequences of positions are awkward and embarrassing, to have recourse to artifice, or  
 to



to cover slight dispositions to confusion, with beautiful and captivating flowers.

The fate of government is more intimately connected with that of its constitution ; than the quality of liquor with the vessel containing it ; or perhaps the temper of the soul with the organization of the body. Nothing can materially affect government, that does not effect its nature. This is true ; though apparently contradicted by facts.

Despotic power has been gradually introduced into republics while their forms have been preserved. In such cases, the constitution of the government had been imperfectly constructed, or secretly and mortally wounded. When the head or heart is ill-formed or rendered useless ; affected consideration and respect to the remaining members, can impose only on those who are unacquainted with the constitution and structure.

However this be—whether the political soul or body be the most important—I may be excused in pointing out a species of ar-



tifice ; not 'uncommon in those who have hypotheses to support ; and the effects of which, in studying our author, young persons can hardly escape.

To serve his views—he changes his general doctrine. The purpose of the fourteenth chapter is to shew, the smallest change in the *constitution* is attended with the ruin of its principle. The author's object here is to maintain the necessity of permanent forms ; and to impress cautions and apprehensions, unfavourable to improvements in political science.—It is true, every change in the constitution will affect the principle. When the Ottoman emperor seized the inheritance of his subjects—wretchedness and despair induced even a despot to modify the claim. This introduced important alterations in the constitution ; and is a reason against the author's general opinion. It altered, by meliorating principle of despotism : if it had occasioned its annihilation, it would have furnished no reason for regret or admonition to a philosophic politician.

Montesquieu,

Montesquieu, with unusual confidence, proposes methods, he calls sure, of preserving the three principles: and they are comprized in the following short Chapter (xx.)

‘ If it be, therefore, the natural property  
 ‘ of small states to be governed as a re-  
 ‘ public; of middling states to be subject  
 ‘ to a monarch; and of large empires,  
 ‘ to be ruled by a despot:—it follows, that  
 ‘ in order to preserve the principles of the  
 ‘ established government, the state must be  
 ‘ supported in the extent it has required;  
 ‘ and that the spirit of a nation will change  
 ‘ in proportion, as it contracts or extends  
 ‘ its limits.’

The general doctrine is founded on false principles; though countenanced by facts. The beauty or utility of a machine, does not depend on the quantity of matter employed in it; but on the skill with which it is constructed. It is true, in our first mechanical essays, we confine ourselves to small spaces and portions of matter: this is owing to defect of skill; not to fixed relations of certain quantities, to certain kinds



of machinery. Our first attempts are improved upon, until the inventions we modelled as toys, occupy any spaces we chuse to assign them. This is the case in government; where those who pretend to be employed in its offices, are generally puerile and ignorant. Their attempts to form democracies and republics, have been like those of savages in constructing huts; to whom the proposal of large and lofty edifices, would appear the wild extravagance of speculative folly.

The extent of free communities, and the quantity of territory to be occupied—are relative to the capacity and talents employed in their construction; and not to their general nature and denomination. That folly must be of peculiar assurance, which would maintain it is better suited to the management of extensive empires, than reason and good sense. And yet this seems to be the doctrine of Montesquieu.

Chapter xix. ‘ A large empire, *supposes*  
 ‘ a despotic authority in the person that  
 ‘ governs. It is necessary, that the celerity  
 ‘ of



‘ of the prince’s resolutions, should supply  
 ‘ the distance of the places they are sent  
 ‘ to; that fear should prevent the careles-  
 ‘ nefs of the remote governor or magistrate;  
 ‘ that the law should be derived from a  
 ‘ single person; and should change con-  
 ‘ tinually according to the accidents which  
 ‘ incessantly multiply in a state in propor-  
 ‘ tion to its extent.’

Whatever be the size of the territory, the  
 celerity of all motions would be greater in  
 free constitutions judiciously constructed;  
 than in communities consisting only of mul-  
 titudes without arrangement, and actuated  
 by the caprices of tyranny. Fear has never  
 proved; it cannot be rendered, a motive so  
 powerful and certain, as interest well de-  
 fined and generating public affection. That  
 despots should be more competent to the  
 task of suiting particular laws to particular  
 occasions, as they may arise in an extensive  
 empire; than magistrates entrusted with  
 power, in consideration of virtue and ta-  
 lents—is too absurd, to deserve consider-  
 ation.

The supposed moderation of the government of China; an empire of prodigious extent; stood in the author's way: and he took some pains to wrest the miserable testimonies of travellers and missionaries, to his purpose. As I have no better authorities, I will leave him in possession of all the advantages he has apparently gained. If you would consult the authorities; and produce their contradictions, I would readily afford you my assistance.

## LECTURE IX.

## SPIRIT OF LAWS. BOOK IX.

*Of Laws, in their Relation to defensive Force.*

THIS book contains important positions, whether deemed true or false. The author states, as an axiom.

Chapter i. ‘ If a republic is small, it is  
‘ destroyed by foreign force. If large,  
‘ it is ruined by internal imperfection.—  
‘ The evil is in the thing ; and no form  
‘ can redress it.’ This is a concealed, but  
mortal, blow at civil and political liberty.  
As Montesquieu determines forms of government, not by the effect of climate only, but by the disposition of the ground, and what is called the face of the country ; he would drive liberty into wild and broken recesses ; and even there render its preservation precarious. We shall have occasion  
to



to observe, in the proper place, that forms of government do not arise from the causes alledged by the author.

It may be sufficient to shew, at this time, that he attributes to democracies or republics, in the abstract, what is true only of defective forms, which have actually existed. In the infancy of navigation, a machine to convey a community round the world, was a speculation ; and a subject of ridicule, to persons whose faculties were bounded by facts. They would have said, if a combination of chances, were to form a solid and floating mass of sufficient capacity, the winds and waves might waft those, who would commit themselves on it, for such a voyage. It so in politics — where men have not formed first principles or elements ; and where despair, from the difficulty of combining great objects, induces them to commit their fates to masses accidentally collected and driven at the pleasure of the winds.

All regular and scientific attempts in government, have been democratic, republican, or ameliorations of monarchies.

These

These attempts have been often unsuccessful ; or like all first experiments, they have succeeded only on small scales. The republics of ancient and modern times, should be considered by a philosophic politician, as small models, marked by some peculiar imperfections : but our author produces them as mysterious forms ; generated by nature, in particular situations ; and to which certain imperfections are inherent.

As there can be only one object of government—there is probably one form which certainly and effectually obtains it.—If by monarchy, or republic, we can provide for the security and happiness of a people ; the number may be large, or it may be small ; it may occupy an extensive or confined territory : its security and happiness depend on its construction. That a republic may be so small, as not to contain a sufficient number of people to defend it against injuries from neighbors—may be true ; but it will not obtain security, by changing its form for monarchy.

The



The opinion of Montesquieu, which seems to me most pernicious, is, that political liberty can, from the nature of things, occupy only small spots ; and when nations extend their borders ; become populous and opulent ; they necessarily lose their liberty. This is owing to the common error of the author, in not distinguishing scientific truth from historic fact. If he had said, the talents necessary to form political constitutions are so uncommon ; and the difficulties attending the exercise of them so great—that they seldom advance beyond experiments and models, in contracted spaces : when those spaces are enlarged, and particularly by sudden and violent accidents, the greatest men are apt to shrink from the task of extending their plans—and desperate adventurers seize the direction of tumultuous torrents, under the denominations of generals or monarchs.

That would have been stating truths ; and alledging reasons : but it would not have proved the author's opinion—that the evil is the form of government ; and that nothing  
can



can redress it. If a writer were to affirm the science of fortification can employ itself only on small spots, and not for the security of extensive districts, he would be deemed insane—and the author has escaped censure for affirming similar absurdities in political œconomy, from the general ignorance of political science.

To provide some degree of security, for those miserable asylums of liberty, called democracies or republics ; he has recourse to the provisions in Greece : which he points out, however, as scientific and necessary inventions. ‘ It is probable, that mankind  
 ‘ would have been obliged to live constantly  
 ‘ under the government of a single person,  
 ‘ had they not contrived a kind of constitution that has all the internal advantages  
 ‘ of a republican, with the external force  
 ‘ of a monarchical government : I mean  
 ‘ a confederate republic. This form of  
 ‘ government is a convention, by which  
 ‘ several small states agree to become members of a larger community, which they  
 ‘ intend to form. It is a kind of assemblage  
 of

‘ of societies, that constitutes a new one, capable of increasing by means of new associations, till they acquire such a degree of power, as to be able to provide for the security of the united body.

If it were customary in England, for ministers of state, to think maturely and profoundly ; if they were not constantly tossed and driven by pressing incidents and occasions ; and their measures were not forced, instead of resulting from judgment and choice :—observations might be made on this part of the subject, of public service.

The fœderal union of the republics of Greece, had for its object the general security, from the attempts of Persia ; and the institution of the court of Amphictiones was intended to prevent the effects of disputes and contentions between the several states. When those republics were formed—that union was perhaps the best provision which could be obtained. But the defects of the system are too numerous and obvious, to be adopted in states, affording any leisure for deliberation and choice. The  
empire



empire or common-wealth of Britain, is severed into a certain number of large masses ; and in the random rummage for plans and ideas, into which distresses have forced our cabinets, a notion of foederal union seems to have been obtained. The ideas of Montesquieu are retailed by the few politicians, whose knowledge extends to his writings ; and a solemn satisfaction diffuses itself over their councils, at the sound of foederal union.

Among the Greeks, like every measure of that superior people, it was the effect of wisdom urged by necessity : that necessity occasioned by external causes. In the British common-wealth, it is the effect of internal vices. I will affirm it, in the face of national vanity and arrogance—that the dissolution of those bonds which held together for some time the several districts, provinces, and colonies of England ; was owing, not to the personal character or characters of princes and administrations, but to a political constitution, originally imagined with rude and awkward skill ; twisted and tortured to particular



ticular purposes; become unintelligible, undefinable; and calculated for public evils or benefits, at the pleasure of a concealed but absolute power. The disorder, lying principally in the head; state empirics would detach the limbs from any vital participation; and give them only foederal union.

If the circumstances of Greece, had admitted the political incorporation of its states; if all its parts had been joined by what may be denominated vital, instead of foederal union—Greece would probably have been at this day, the model of the political world. But, with wise provisions against internal differences, it never experienced a moment's peace. The public enemy was no sooner withdrawn, than some cause arose of internal war.—Why? Because the Greek states had no reason of union, but public danger: being detached, independent, and distinct bodies—they acquired distinct characters and distinct interests—the perpetual causes of contention, and war.

Great

Great Britain furnishes the only instance, in the present state of the world, where public events have given leisure for profound deliberation; or the arrangement and settlement of a political government. The civil war \*, which has held its fate suspended many years, has allowed time for consideration and reflection. And if it issue not in a wise and permanent union, it will be owing to want of talents in the persons who direct our councils:

The ideas, now floating in the common air; for I know no other; are hastily conceived: and if adopted, will have speedy and alarming consequences. A foederal union; without the court of Amphictiones; without states general; or some tribunal of appeal: will produce political anarchy and warfare.

Even such an union, with the provisions imagined by the wisdom of antiquity, cannot be expected to have happy and permanent effects. Why the separated and

\* The Lecture was first read during the American war.



independent states of Britain, should act more moderately and more wisely than those of Greece; is difficult to understand.—When nature designs a body to have strength and force, she does not tie a serpent to a man; but animates a proportionate mass in a lion, or an elephant. It should be so in human contrivances. Political bodies, to have one soul, one spirit, one interest; should have their members and parts united vitally; and not by such feeble bandages as contracts and treaties. This is true and practicable, on any surface of ground; for any extent of country; and any number of people\*.

It is to be feared, however, that measures of different tendency will be adopted hastily, by men not accustomed to deliberate and think. Public offices senates and councils in England, have the appearance of attorneys chambers; where clerks and secretaries are harassed with futile and complicated

\* This truth will be exemplified in the consequences of political accommodations with Ireland.

business,



business ; and where the calm voice of reason and wisdom is feldom or never heard.

Confederations of small republics, therefore, do not arise from their nature ; but may be proper expedients in particular situations.

The author annexes a condition, which destroys the general doctrine, Chapter ii. ‘ That a confederate government ought to be composed of states of the same nature, especially of the republican.’—This is like the argument of Helvetius, for the equality of human capacities. If all men be made precisely of the same materials, born of the same parents, fed with the same morsels, in the same quantities, and educated on the same spots, in the same moments, by the same masters—they would, according to the philosopher, be alike. Who can dispute the position ? Our author should have been as accurate in his requisitions of similarity in the republics to be confederated ; if he meant to unite internal peace with external force.

But there is an indistinct presumption through the whole of the work—that internal liberty and public security are incompatible. As we shall meet this opinion, on fair and open ground; it may be sufficient to observe, it does not appear, that confederated republics would produce greater force against public enemies; than a single republic occupying the same territory, and possessing the same resources. If therefore we prove, any extent of country, and number of inhabitants, do not exclude plans of free government; it will follow, that a single republic, in any given space, will provide more effectually for the security and happiness of the state, than the confederation of any number of distinct and independent states.

In the third Chapter, the author has preferred the republic of Lycia to that of Holland; for a reason which has had the effect of enchantment on succeeding political writers: because the cities of Lycia, contributed to the expences of the state, according



according to the proportion of suffrages. Dr. Smith has seized the idea; and proposed it as an expedient to unite the provinces of America with Great Britain. At the time, it had the merit of ingenuity and good intention.

Inferior politicians, have since stated it as a general principle, that suffrages should be regulated by property. In free states, the best inheritance of every man should be the laws and the constitution; not his estate or his chattels: and the best property of the state is the industry, talents, and attachment of the people; not the lands they possess. The feudal idea of regulating political measures, by portions of land, to which the inhabitants were only appendages; is not yet discarded. Grave senators utter the absurdities, that forests, fields, and blades of grass may be represented by men. When the grass is consumed by cattle; and those cattle by men—must not the men be represented? Perhaps they may, as containing the grass. The possession of property, is of itself a sufficient advantage;



and it is unjust and impolitic to add to the advantage at the expence of labor industry and talents ; which are the best and most valuable resources of every community ? Nothing but a civil offence or crime, should exclude a citizen the privilege of suffrage in the appointment of legislators and magistrates ; who are to determine on his happiness and life. It is the circumstance which gives attachment and public spirit to a whole people : the lands and riches of the country, may be divided among a few of its inhabitants. Suffrages and property have no more connection, than suffrages and nobility, or suffrages and military rank.

LECTURE

# LECTURE X.

## SPIRIT OF LAWS. Book X.

### *Laws relative to an Offensive Force.*

†  
**M**ONTESQUIEU says, Chapter i, ‘Of-  
 ‘fensive Force, is regulated by the  
 ‘law of nations, which is the political law  
 ‘of a community in its relation to other  
 ‘communities.’

The law of nations is an important branch of political science. It is, to the world, as the civil law to communities: it is reducible to principles; and might be enforced by sanctions, as competent and effectual, as those which support civil authority. When the general law is applied, nations are to each other as individuals; their characters formed by political constitutions; and their actions regulated by

common consent, expressed in treaties, or allowed by acquiescence in approved customs. But, if we have seen, men are ignorant and awkward in attempts to combine the parts of political institutions ; nay, that all things, above civil and municipal laws, are supposed insusceptible of fixed principles ; and left to the random operations of circumstances—are we to wonder the law of nations, is a portion of science so vague and undefinable ? The political constitutions of existing communities are so imperfectly formed, that national principles, and characters their immediate effects, are in the lowest degrees savage and brutal. National maxims are avowed, and actions performed, which would bring individuals to ignominy and death in the most wretched communities of Africa : not because truth and falsehood virtue and vice are different in private and public transactions ; but because nations in respect to each other, are not in a state of civilization ; and have not submitted their actions to a code of regulations, on the dictates of reason or  
the



the general experience of good and evil. No traveller has described savages so destitute of civil regulations, as the states of Europe are of general and effectual laws, to prevent national injustice, and to preserve public peace. Every community is armed and prepared for the utmost injustice and injury; want of force and power only prevent all princes from acting on the principles of banditti, and deluging Europe in blood.

We talk, however, of the Law of Nations. And what is the definition of that law? Is it expressed in treaties? Treaties are insidious agreements, without sanction or penalty; the most important parts generally formed of secret articles to effect injurious measures. If we could point out tribes of savages, where the disputes of individuals were terminated by private contracts, admitting articles of combination to seize the property and take away the lives of unoffending neighbors; we should search the language for contemptuous or opprobrious terms, to consign them to  
general

general odium: or it might suit our interest to enhance their misery, by converting their persons into articles of inhuman commerce. This, however, is the state of Europe, as a community of nations connected by treaties.

Customs which, by time, have acquired the authority of laws, are, like civil usages, founded on desultory experience.

The common law in some nations, and manners in others, rest on circumstances equally precarious. I do not mean, the experience of good and evil constitutes a precarious foundation: but that experiments of any kind, committed merely to memory, and not arranged, compared, reasoned upon, and furnishing general principles; are like the materials of a building deposited at random, of little use and convenience.

To give treaties and customs the effect of general law, they should be publicly recognized; and a power delegated by general consent to enforce their observance.

Henry



Henry the fourth of France conceived a plan for regulating the affairs of Europe, which does more honor to his understanding and heart, than any thing I recollect in the history of princes. He proposed a delegation from all its states, furnished with powers to enact and enforce general laws.

Political sophists have considered the project as impracticable; the common epithet affixed to every thing, which little minds do not comprehend, or cannot effect.

To a hord of Indians, the management of communities consisting of millions, would be incredible; and propositions to that effect, would be treated as visionary and impracticable: political sophists, who have applied their flimzy faculties to this plan, and attempted to obscure it by misapprehensions and difficulties, are at greater distances from the elevated character of Henry IV. than the most ignorant Indian, from ministers and secretaries of great fame, in venal and loquacious senates: Until a plan, similar to that of Henry IV.  
be



be adopted by the communities of the world, no Law of Nations can be enacted or enforced ; and our author has referred the regulation of Offensive Force to a non-entity.

A state of political anarchy among nations, may admit of what the author calls the right of conquest : which, if admitted, cannot be better circumscribed than in this book. The art of arresting the ferocious imagination of a victor, and shewing his interest in his humanity, is almost peculiar to Montesquieu ; and no praise can be too great, for the manner in which he always employs it.

The fourth Chapter, in which he enumerates the advantages of a conquered people, is among the most ingenious in the Spirit of Laws. The following passage, will lead your imaginations through the scattered provinces of the Roman empire ; oppressed with vexations and injuries ; and relieved by the invasions of Goths and Vandals—it may induce you to hover in apprehension and suspense, on the circumstances

stances of modern nations ; who are gradually giving up privileges, and submitting to burthens, which may make any event desirable. ‘ Conquered countries, says he, ‘ are, generally speaking, degenerated from ‘ their original institutions. Corruption has ‘ insinuated itself ; the execution of the laws ‘ has been neglected ; and the government ‘ is become oppressive. Who can question, ‘ that such a state would be benefited, and ‘ derive advantages from the very conquest ‘ itself, if it did not prove destructive ? ‘ When a government is sunk into that ‘ degree of corruption, as to be incapable ‘ of reforming itself, it would not lose much ‘ by being cast into a new mould. A conqueror who enters a country triumphantly, where monied men have by a thousand wiles and artifices, acquired numberless means of usurpation ; where a miserable people, who see abuses grow into laws, groan under oppression, and think it vain to complain : a conqueror, I say, may discomfit all ; and the masked tyranny, ‘ will



‘ will be the first thing exposed to his  
‘ fury.’

The author has pointed out, Chapter v. the use made by Gelon of his victory over the Carthaginians, as the most glorious in history. ‘ The noblest treaty of peace, ‘ says he, ever mentioned in history is, in ‘ my opinion, that which Gelon made with ‘ the Carthaginians. He insisted on their ‘ abolishing the custom of sacrificing their ‘ children. An admirable action! After ‘ having defeated three hundred thousand ‘ Carthaginians, he required a condition, ‘ which was advantageous only to themselves ; or rather he stipulated only in ‘ favor of human nature.

‘ The Bactrians gave their fathers, when ‘ grown old, as food for their dogs. Alexander abolished this custom by his authority ; and it was a triumph which he obtained over superstition.’

Candid and liberal, as I know my audience, I apprehend it may be surprized, I differ wholly from Montesquieu. It is an  
act



act of cruel and tyrannic power, to abolish customs, particularly religious customs, without removing their causes. Parents have sacrificed their children ; because their own lives rendered burthenfome and miserable, they thought it religious and humane, to return immediately to the deity, wretches destined for the same fate. Old men have been sacrificed, to prevent their lingering by inevitable famine. Customs introduced by necessity, or by a dreadful kind of humanity ; have been brought forward by superstition into better circumstances ; and continued by those who derived advantage from them, when the original causes were forgotten. But it is the business of the legislator, to remove the cause ; not to forbid the effect. The government, occasioning wretchedness reconciling parents to the sacrifice of their children, should be the object of his attention : or if superstition continue inhuman and destructive customs, for the advantage of its priests ; the customs are not to be forbidden

forbidden by actions of tyrannic or by legislative powers ; but the superstition is to be removed by the introduction of knowledge.

Gelon and Alexander, therefore, appear to me exactly, as Cortez and Pizarro ; who abolished by the sword the Mexican and Peruvian idolatry.

If I had been of Gelon's council—the story of Alexander is fabulous—I should have protested against the suggestions of his humanity—because they were to be indulged by an act of power the most pernicious to mankind ; that of controlling opinions, or abolishing customs without removing their causes. If it were justifiable in the victor, to direct the thoughts and manners of the vanquished, the world would not be tenable. And if the power be allowed to Gelon, for an apparent act of humanity, why not to Cortez and Pizarro ? False maxims once established, and they are generally established on plausible pretences, will be applied to all possible purposes. Nay, who will say, that  
the



the horrible devastations of the Spanish adventurers, were not justified by reasons as good as the requisitions of Gelon? They took the Indians by thousands; baptized; and then sunk them in the mines. They perished, it is true; but their murderers were convinced they had been sent to heaven. This is a species of humanity: and the acts displaying it, were justifiable on the principle which has procured Gelon the applause of our author.

The opinions of men are formed by Education; and their customs by government. To correct or abolish actions arising from those opinions or customs; we must apply to the causes in Education or government. To attempt it, by acts of power, is forbidding the production of fruit, without eradicating or demolishing the tree.

While I subscribe to the military and private character of the general of Syracuse, I have no opinion of his political talents. I think Montesquieu in holding up this species of interference with opinions or customs,



to the admiration of the world, has done injury to the interests he meant to serve; those of toleration and humanity. No plan of intolerance or persecution was ever proposed, which had not the advantage of the persecuted for its pretence. In this, Gelon and the vile instruments of a Roman Catholic Inquisition, are not to be distinguished by an enlightened or humane politician.

These are the most important circumstances on which I differ with the author in the book before us. It contains several scattered observations, which some of you may chuse to consider. But as they occur in other parts of the work, I may meet them, more at my leisure.

LECTURE

# LECTURE XI.

## SPIRIT OF LAWS. BOOK XI.

*The Laws that form Political Liberty, in regard to the Constitution.*

THE author distinguishes the laws, that form political liberty in respect to the constitution, from those which respect the citizen.—This distinction, the most important in the science of government, seems not to have been understood by Montesquieu; but as it appeared in the construction or administration of particular states,—he loses sight of the distinction itself, as he proceeds in the subject; blends or confounds heterogeneous ideas, as they had been blended or confounded in political practice.

The distinction, as understood by Montesquieu, must refer political liberty, re-

specting the constitution, to the divisions and arrangements of power, which temper or moderate its operations; and that respecting the citizen, to the privilege of being governed by the laws.

Though the definition be uncouth and erroneous, I must acknowledge, if Montesquieu had not made it, I might never have attempted another. It is thus the mistakes of genius may contribute to the advancement of knowledge.

The fault of the definition of political liberty, is precisely the mischief, which infects all governments—that of admitting uncontrollable power, whether divisible or indivisible, in official members, or in departments of the state. When the people appoint princes or senates, or when princes or senates are allotted them—false inverted ideas of masters and servants are established; the distinction of interference, and the general power of self-preservation or controul, is artfully concealed: to the dishonor and misery of human nature—a political  
axiom



axiom is established, that a part is greater than the whole.

The author, it must be owned, is disposed to meliorate the harsh absurdity, or to lessen the evils arising from it. He pleads for the moderate, not the oppressive exercise of this despotic power. He would have been shocked, however, at any suggestion or thought of rendering it subject to the great or necessary principle of self-preservation in the whole body of the people.

As the fervor of the sun, is tempered by clouds which refract its rays—so is despotic power meliorated by a certain kind of division, which interposes either ranks or offices, between the prince and the people. It is in a fluctuating or undefineable point, called moderation, the author places political liberty in respect to the constitution.

But experience proves, this moderation, is only a term for caprice ; on which a concern so important as the happiness of a community, should never depend.

Political liberty—as I have observed, is the result of a power in the body of the

people respecting the constitution,—analogous to that of a Lord Paramount, when he has delegated offices for the administration of his affairs. This power does not act by interference in the business of delegated departments ; but by requiring an account, or correcting abuses. The difficulty of organizing or disposing a multitude, to act without confusion, or without committing greater evils than those they mean to remedy, has induced weak or timid minds, to give up this first principle of free government ; and sophists have foiled or blotted it with some dexterity.

The abuses or oppressions incident to all institutions, not founded on a certain and regulated power in the people, the only foundation of political liberty—will ever lead men towards the truth ; or oblige them to adopt some portions of it.

Political liberty may be defined, the condition of a whole people, secure from danger, or apprehension, in its collective relation to the government it has appointed. It does not imply a direction in official actions ; but  
a fa-



a faculty of confining all delegated powers to their proper channels or employments.

This ; not any division, or melioration, of uncontrollable power, is political liberty in regard to the constitution.

Liberty, in respect to the citizen, should be called civil, not political. This distinction is founded, not so much in etymology, as in the necessary arrangement of æconomical truths. Government is to the collective body of the people, as the citizen is to government. If the people, collectively, were at the caprice of the administration ; or if the business of the administration were continually interrupted by the interference of the people—there would be no political liberty : if the individual or private citizen were at the caprice of the magistrate superintending him—there would be no civil liberty. The author therefore justly defines liberty, as it relates to the citizen, to be the power of acting as he pleases, within the limits of the laws. But he should have denominated it civil, not political liberty. They who have copied his inaccuracy, have been



embarrassed by the obscurities it must occasion.

I will mention an instance — When the conquest of North America was undertaken, by the English administration, because it would not submit to be taxed, where it had no representation; writers of abilities reproached the enterprize, as violating civil liberty. They extended their observations to political abuses established in Britain, since the revolution; which enabled an enterprising administration to act at pleasure: these they branded as infamous violations of civil liberty. The retainers or advocates of that administration — appealed to the experience of Englishmen throughout the world — ‘Are we not (they said) in the secure possession of our property? Are we not in all cases tried by our peers, on fixed or known laws? What is civil liberty?’ — Their readers were convinced; and the friends of the constitution imagined to have referred to speculative shadows. The subject was not understood; the hints of Montesquieu, were obscure, ill-defined, or copied from  
from

from the histories of free constitutions. Mr. Locke, from whom these writers drew their materials, was not aware of the importance of the distinction. Sophistry had a temporary triumph over the honest, but feeble advocates of the people. By maintaining with truth, that we enjoyed civil liberty, and that the design on America would not inroach on it—they confounded those who had rested their complaints on violations of civil,\*not of political principles.—The American question, is still involved in the obscurity or confusion of blended ideas, in their nature perfectly distinct.

I will not point out to you the consequences of such errors. We have felt the disgrace of the American war too sensibly for discussion or debate: and we have entailed on future ages such inconveniencies as may render the transactions of that period, disgusting and mortifying, but useful lessons to the world for ever.

In this book, the author has occasion to introduce numerous definitions of liberty. His animadversions on the various significations



tions of the term, are just : but his own, deserve particular attention, as his authority is important with political readers.

(C. 3.) ‘ In a state, or in a society directed by laws, liberty can consist only in the power of doing what we ought to will, and in not being constrained to do what we ought not to will.’ The definition is sufficiently vague, to admit of despotism, if it observe the forms of laws. Who may be judge of what we ought to do? The laws. How are laws enacted? It is in the answer to the question, we are to seek the nature of liberty, either political or civil. He adds—‘ We must always bear in mind, the difference of independence and liberty. Liberty, is the right of doing whatever the laws permit : and if a citizen could do what they forbid, he would no longer be possessed of liberty ; because all his fellow citizens would have the same power.’—A better definition of liberty would be, the right of doing what the laws do not expressly forbid. Permission implies an idea, not founded in truth,



truth, and unfavorable to the happiness of society—as if government at its institution took possession of all the powers and property of men, and dealt out portions of liberty in the exercise or enjoyment of them: whereas government can be reasonably instituted, only as the instrument to prevent the consequences of interfering interests; or to restrain the powers of men within those bounds, where they can exercise them without reciprocal detriment. Governments, regulations, or laws have been formed in consequence of the excesses of liberty; as physic was invented in consequence of irregularity or intemperance.

As it would be unphilosophical or untrue, to say temperance consists in the use of such food, as physicians permit; so it is, to insinuate that liberty is the effect of permission in the state. Physic or policy may be of use, in remedying what experience has decided to be wrong; but the man must be unwise or imprudent, who would consign to either the power of dictating all that is right or proper to done.

It

He continues the subject (C. 4.) in the following extraordinary manner. ‘ Democratic and Aristocratic states are not free by their nature. Political liberty is to be found only in moderate governments : but not always in them. It is to be found there, only when power is not abused. But it is the lesson of eternal experience, that every man who has power, is disposed to abuse it. He proceeds, till he comes to some limits. Is it not extraordinary ! virtue itself has need of limits.’

Democracies, where the people are the immediate legislators and executive magistrates, may be as despotic as the governments of single tyrants. And where all power is invested in the nobles, aristocracies are unfriendly to liberty. But these are not republics : I mean, the prevailing interest is partial, not general.

Government, judiciously founded on the judgment or will of the community, delegating legislative and executive powers, which cannot be abused with impunity, is free by its nature. The freedom to be found



found in moderate governments, is, by his own account, the most precarious imaginable. It depends on a prince or a minister's use of powers ; which no man should possess, where the happiness of society is concerned ; were it only possible to abuse them with impunity. But Montesquieu says, truly, that every man invested with power, is disposed to abuse it. The moderation which depends on the character of the prince, the disposition of his minister, or the fluctuating humors and interests of a corrupt nobility, are not foundations of political or civil liberty. They may procure that species of consideration which masters shew to their cattle ; when they abstain from injuries obviously or immediately detrimental to their interests.

His idea of virtue, as having need of limits, is a conceit, pretty only at the first glance. All sensible effects, arising from intellectual and social intercourse, are the consequences of action and re-action by measured or proportioned powers. Virtue and liberty are among these effects. As vir-  
tue



tue depends on the constitution of man ; not on any thing capricious or precarious within or without him : political liberty and the happiness of society are the results of its constitution, not of any whimsical spirit that may occasionally actuate it.

In stating the purposes of different governments, he says (C. 5.) ‘ Though all governments have the same general end, which is preservation, yet each has a particular view.’—The general end of government is the happiness of society ; not the preservation of any political constitution. The desire of happiness, in all bodies, whether natural or artificial, is previous to that of preservation : the principle of self preservation is formed, and the art acquired, as means are studied to obtain a favorite end.

Montesquieu says, ‘ One nation, there is in the world, that has political liberty, for the direct object of its constitution. We shall examine the principles on which that liberty is founded. If they are good ; liberty will appear, as in a mirror. To discover

‘ discover political liberty in a constitution,  
 ‘ requires no great trouble. If we can be-  
 ‘ hold it really existing—if it be actually  
 ‘ found, why should we search for it?’

This leads the author to the Constitution  
 of England ; in the consideration of which,  
 we shall carefully attend him.



LECTURE XII.

*CONSTITUTION OF ENGLAND.*

PART I.

SPIRIT OF LAWS. BOOK XI. C. 6.

THE Constitution of England, like religion, virtue, or honesty, is generally spoken of with applause, by those who cannot define it ; by enemies to the particular advantages it affords ; and by those who consider with regret, blessings which exist only in their imaginations.

Our author has abundantly assisted in throwing an air of enchantment, over a fabric which, compared with other institutions, has important conveniencies ; but having been erected in parts, at distant periods, with various or discordant views ; has  
not

not that general effect, beauty, or utility, essential to perfect or excellent productions.

Montesquieu had certainly no design of imposing on his readers; but his manner of treating the subject has that effect.

He introduces the present chapter, with a general observation; which is true: but not containing the whole truth, it has many of the inconveniencies of falsehood. — ‘ In every government, there are three sorts of power; the legislative; the executive in respect to things dependent on the law of nations; and the executive regarding things which depend on the civil law.’

I may be deemed captious in the objection to this general observation. But I think it of importance. The idea of government, and that of society, should not be detached, even in speculation. It is not attempted with impunity, in stewardships of the smallest trust; or in private life. In politics, it is productive of enormous evils. When provisions are made, for the regulation of the community, government is abstracted in idea and in fact, by those who reason on

its duties, and by those who execute its trusts.

An agency depending on the general body, is formed into a detached monster, to violate or devour it. Pernicious immunities, are called prerogatives; and all trusts deemed rights. We speak or reason of this interested, voracious power, as of a person having attributes, possessions, or privileges, to which the security and happiness of the society are to be sacrificed. Indeed, corruption, in political as in natural life, may give existence to gaudy or venomous beings, who devour the substance producing them.

For these reasons I object to Montesquieu's general observation. It should have been to this effect; if he meant to point out a free constitution, rendering a community happy. ' In every political society, there are  
' two sorts of power—that which arises from  
' the judgment, will, or force of the whole,  
' and which is formed by a proper arrangement or organization of the society:  
' and that collected into particular parts,  
' which are as limbs or members, and which  
' in



‘ in their peculiar or appropriated motions, are directed or controuled by the general force.’

It may be said, this power is not to be found in the Constitution of England; to which the author meant to confine his attention. In that case, the general observation must be unnecessary: for the Constitution, the subject of panegyric, is defective.

It will, no doubt, be contended the author is not blameable for confining himself to the subject before him; the Constitution of the English government, not the condition of the people: i. e. he is not blameable, for employing critical talents on the symmetry or beauty of a structure, without glancing at its foundation. No society can enjoy permanent freedom, prosperity, or happiness, which is not formed, easily to express its will, or exert its force, to preserve all delegated powers within their limits. This is the firm, the eternal basis of political liberty. Different constitutions or forms of government, in the common sense

of those terms, make only the difference of an hour or a day, in our tumultuous and fleeting enjoyments.

If, with Montesquieu, we disregard the foundation, we may attend him with pleasure, in describing the structure of the English Constitution. To speak without metaphor—if we forget the government of England is not checked or controled, but in modes admitted reluctantly; imperfect, awkward, often unadvisable, sometimes dangerous: that the king can do no wrong; that the nobles have hereditary honors, jurisdictions, or powers of the most pernicious nature: that the representatives of the commons may betray their trust with no apprehension, but that of not being re-elected; and to avoid such inconvenience, may, in collusion with the executive hereditary branches of government, continue their sessions at pleasure; disfranchise numerous classes of their constituents; and render void the general purpose of representation: If we forget these essential defects:—if we forget that England is destitute of political



cal liberty—we may attend with satisfaction to the wise or judicious provisions for the enjoyment, though it be precarious enjoyment, of civil liberty.

The division of political powers into three, in the manner of the English government, is accounted for with perspicuity.—But the ideas of balance or counter-balance arising from the division, are puerile and fantastical.

On the subject of popular representation, he adheres to facts, exhibited in practice.

‘ It is not necessary, the representatives, who  
 ‘ have had general instructions from their  
 ‘ constituents, should wait to receive particular directions on every affair, as is practised in the diets of Germany. It is true,  
 ‘ by this method of proceeding, the speeches  
 ‘ of the deputies, might with greater propriety, be called the voice of the nation :  
 ‘ but on the other hand, this would occasion  
 ‘ infinite delays ; would render every deputy the master of the assembly ; and on occasions, the most pressing, the power of



‘ the nation would be checked by the caprice of an individual.’

Instructions of a general or particular nature, are not necessary to representation ; which depends on the methods observed in elections. If the constituents appoint a deputy, who understands their interests ; who must find his own, in rendering them consistent with the general good — they constitute a representative who will deliberate or act as they would do, if present in the public senate, viewing local interests in their relation to those of the community. Instructions may be useful ; or they may be embarrassing. If the representative should act injudiciously, for he could hardly act corruptly ; they should instruct, remonstrate, or recall him. But their intercourse should not affect public determinations, which must be carried by a majority of the assembly.

If we suppose a deputy improperly chosen — the privilege of instruction would be of little use. The deputy not having an interest

terest in common with his constituents, not being their actual representative ; he would attend to instructions as persons of perverse inclinations or bad habits, attend to lessons or sermons.

I do not mean to countenance the ridiculous claim of virtual representation. A member of parliament, is either the actual representative of certain numbers of people, to whom it is inconvenient to attend ; or he is their master ; or he is something not definable by common reason. As he brings into the senate, his knowledge and attachment to local interests, he finds all the members of the assembly, in similar circumstances ; and that its business is to combine or harmonize them for the general advantage.

It is possible, things may appear to him in a light of which he had no conception, on undertaking the charge ; that a difference in opinion may arise between him and his constituents. In that case, he is to act from his own judgment ; and submit to the

consequence. But as his judgment may be wrong, and that of the constituents right ; as it is possible he may have been influenced, or corrupted, the constituents should have a speedy or easy mode of discharging him. Thus, the nation might have the advantage of the talents of individuals ; and little inconvenience from their vices or faults.

‘ When the deputies, as Mr. Sydney well observes, represent a body of people, as in Holland, they ought to be accountable to their constituents : but it is a different thing in England, where they are deputed by boroughs.’

As the author did not specify the page where the observation is made, I have not found it ; and I am at a loss to guess at Sydney’s reasons for the distinction. All unaccountable trusts are follies ; and if violations of private confidence are rendered censurable or punishable by civil laws, it must be reasonable or useful, that all offenders in public deputations, should  
not



not only be recalled at the will of the constituents, but punished at their suit on general and political regulations.

In the representation of Holland, there is an absurdity, and therefore an inconvenience ;—I mean the necessity of recurring to the constituents on every proposition. This is sinking the representative into a post-boy : a letter from the Province would answer the purpose of the deputy.

‘ All the inhabitants of the several districts, ought to have a right of voting at the election of a representative, except such as are in so mean a situation, as to be deemed to have no will of their own.’

No meanness of condition, short of slavery, corresponds with the description. That which verges nearly on it, is the condition of a courtier ; of the families of an ignorant, vicious, or needy nobility ; or of a priesthood, uniformly devoted to interest and views of preferment :—these are the persons to be excluded, if baseness of mind, or meanness

ness of talents and circumstances are to be considered as reasons :—not the honest, the laborious peasant ; not the ingenious or industrious artificer, whose talents are the pillars of society.

Political sophists have imagined reasons for excluding the lower classes of the people; who should have an exclusive right, if exclusions were admissible, because they are peculiarly interested : they have alleged defective capacity or judgment. If this be founded, I must have been singular, in opportunities of information. I declare, on my hopes to be considered by you as a man of veracity or common sense, that in the excursions, visits, or residences I have made ; and they have been in almost every part of the island—the farmers, peasantry, and laborers have been my refuge, from the ignorance or folly of higher orders. There is some difficulty in their dialects, which may shock men of feeble sensibility ; but they combine a greater number of circumstances, relating to their occupations ; they  
are



are better acquainted with the foibles, characters, and interests of their oppressors—they have a greater share of judgment on essential subjects, than any classes in the community.

Their integrity, it is said, is not incorruptible. It may be answered, venality has tainted all orders, when it has approached them: and if they partake of the general evil, it is from that necessity which rules the moral with the iron sceptre it wields over the natural world. Distress or poverty; especially when combined with tender or affectionate apprehensions—will lop off the branches of integrity or honor: and he must have the heart of a lawyer, pampered by the distresses of his fellow-creatures, or of a judge, wading in their blood—who will alledge errors and faults as reasons for continuing in slavery the inoffending and useful parts of the community.

Crimes there may be, which should disfranchise particular citizens, on conviction. But all orders, affected by the laws,  
should



should have suffrages, in constituting legislators.

‘ There was a great defect in most ancient republics. The people took active resolutions ; such as required execution : a thing of which they are absolutely incapable. They ought not to enter into the business of government ; but by chusing representatives ; which is perfectly within their reach. For though there be but few, who can exactly estimate the capacities of men ; there are none who cannot judge, whether the person chosen is better informed than most of his neighbors.’

This argument constitutes the triumph of those, who are enemies to every species of popular government.

No man of sense, imagines the peculiar business of the hand or the foot, to be that of the whole body. If politicians, in ancient or modern times, have reasoned thus absurdly respecting public bodies—it only forms an addition to common proofs of the imbe-

imbecility of human reason. The parts of political, as of natural bodies, have their offices: but the members are not detached, or independent of the bodies.

The ancients inclined to one extreme, by rendering democratic assemblies, active, or executive. The moderns, most favorable to liberty, are disposed to the other: they form detached members; obtain independent delegations; and constitute trusts which may be violated with impunity. The people, though incapable of the ordinary business of government, should be organized into a capacity of forming judgment and exerting force to correct abuses of power; or to punish violations of public trust. Where this capacity is not bestowed;—there is no political liberty.

The triumph of despotism, or of illicit power in every form, is the difficulty of this arrangement or organization.

Large and obvious arrangements are easily effected in every state: but political liberty must arise principally from gradual subdivisions



visions to the utmost degrees of minuteness. In the constitution of the human body, nature is as attentive to a capillary nerve, as to sinews and bones. By subdivisions sufficiently minute, the vote, the will, or the judgment of millions may be obtained ; without interrupting the occupations of the people ; inciting commotions ; or hazarding the operations of government.

Elective franchises are refused, because this truth is not understood. Populous parishes dread an assembly of the inhabitants ; perceiving it would be tumultuous or inefficient. Enterprizing or interested persons seize the advantage, and manage their concerns at pleasure. If parishes were sufficiently subdivided ; and all elections made by representations, or by representations of representations — the general will would be the law ; and the industrious inhabitant would not be under the necessity of neglecting his employment, unless that general will were opposed or violated.

This mode of imitating nature in the construction of societies might be — for it  
has



has been \* —extended to a kingdom: and it seems to be the only mode, in which political liberty can be obtained or preserved.

\* The subject is fully explained in a Pamphlet, written by the Author in 1782; and intitled *Letters on Political Liberty*.

LECTURE

LECTURE XIII.

*CONSTITUTION OF ENGLAND.*

PART II.

SPIRIT OF LAWS. Book XI. C. 6.

**W**HEN Montesquieu has given his sentiments on popular representation, he proceeds to nobility.

‘ In a state, there are always persons distinguished by their birth, riches, or honors:  
‘ but were they to be confounded with the  
‘ common people, and to have only, like  
‘ them, the weight of a single vote, the  
‘ common liberty would be their slavery;  
‘ and they would have no interest in defending it, as most of the popular resolutions would be against them. Their  
‘ share in the legislature, ought therefore  
‘ to

‘ to be in proportion to the other advantages they enjoy in the state ; which is the case, only, when they form a body that has a right to put a stop to the enterprizes of the people, as the people have a right to put a stop to their enterprizes.’

On this subject, I would wish to avoid offence. Students nobly descended, or having noble alliances, will consider me, as forming fair grounds of disputation ; not as the interested advocate of opinions.—I do not recollect any good reasons for supporting a body of nobles ; which are not included in the following.

I. That it is the goal of honor—or furnishes incentives to great actions.

II. That it forms a barrier between the prince and the people ;—to temper power ; or to abate the indiscretion of popular violence.

History records virtuous, disinterested, and glorious actions, where no motives from nobility have been offered.

In Rome, the enterprizes of the people against the privileges of patricians, held

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the state in continual convulsion ; obliged it to have recourse to arbitrary power in a dictator : the Romans were gradually familiarized to the will of an individual, from an abhorrence of the nobility ; and a dictator introduced despotism with the acclamations of the world.

I request the young gentlemen who would argue on the ground I have taken, to state the impolicy of inadequate rewards ; where the merits of an individual, obtain benefits for future generations that may be worthless or vicious. This is wasting or misemploying the incentives of virtue : and a body of nobles may act as a body of stagnant water, infecting the neighboring region with torpor and barrenness.

It may be alleged—the consciousness of high birth, and the impulse of high expectations—have great effects on the human mind. The consciousness of any thing, not the fruit of the mind, besides being an absurdity, is attended with no useful consequence ; certainly with no effect to justify the waste in the general happiness of society  
by

by the institution of nobility : and expectations, not raised or warranted by suitable conduct, are of very slight, when not of mischievous operation.

But, if nobility be the reward of public merit—why is it generally conferred, without the slightest pretence of it? The army and the law, are roads to noble honors. How the church omitted the privilege ; and moderately confined her ambition to the personal good fortune of her votaries—is a question I will not pretend to answer !—Except the few noble families of soldiers, sailors, and lawyers—whence are the others ?—I will not blot my paper with their names, occupations, or characters. They furnish no argument, that nobility is an incentive to great actions : they prove, it is their hindrance or their grave.—But,

II. It forms a barrier between the prince and the people, to check power ; or to limit the indiscretion of popular violence.

This idea is suggested in several parts of the Spirit of Laws. It must be a barren imagination which cannot point out some



utility, even of detestable institutions. But is the author warranted, in the opinion, that power is moderated by being divided among numerous tyrants? The nobles check the power of the king; because they would exercise a similar power: they dread the violence of the people, because their oppressions deserve it. Is not the peasantry of France less oppressed, better fed, and happier, as the power of the nobility yields to that of the crown? If this be fact; which you may discover by enquiry; — it militates against the author's favorite opinion. But the opinion rests on unphilosophical ground.

In the chaos of common politics ruled by caprice or accident, we find it expedient to balance evils with evils, or errors with errors, to serve temporary purposes. The division of illegitimate or pernicious power among princes and nobles, if it should abate its atrocity, may be justified. But it is the object of science and virtue to get rid of the whole evil; not to balance portions for its permanence or establishment.

The



The circumstances of Europe may not in many ages admit of the proper remedy in this evil. But the full emancipation of North America; and the formation of commonwealths on deliberate plans; are events which promise great, though distant blessings. As a Briton, I look forward to them, not with unmingled satisfaction. As a man, I must declare, no temporary advantages to my country: no relief under her misfortunes; would have consoled me, for the loss of those hopes or prospects, which America holds up for the instruction and benefit of mankind.

But to return to the Spirit of Laws.

When Montesquieu affirms, the executive power ought to be in a monarch, he must mean, it is so in the English Constitution. It is not true, 'that requiring expedition, its duties are better discharged by one than by many.'—In public, as in private business, men may 'make more haste than good speed.' That has been perceived, where executive powers have been intrusted in single hands.

Kings are therefore provided with cabinets, or confidential councils, by whose advice or concurrence, all movements of executive powers are made. This is actually committing them into the hands of numbers. A species of superstitious fancy is thrown over the idol of the assembly. He is supposed to be born with talents and virtues suited to his divine nature ; he is fixed in the obvious points of all gaudy or ostentatious exhibitions ; he is apparently to chuse his servants, for purposes he cannot comprehend ; and they take from him the trouble or blame of real business : he is to indulge his caprices, on the responsibility of others ; and those caprices are to determine the most important political questions.

There are young gentlemen in this room, who may furnish the Tartars with as many reasons for adoring the Grand Lama ; as can be alledged in a free nation, for the support of such royalty.

It is true, ‘ if there were no monarch, and  
 ‘ the executive power were committed to  
 ‘ certain



‘ certain numbers of persons selected from  
 ‘ the legislative body, there would be an  
 ‘ end of liberty ; because the two powers  
 ‘ would be united ; the same persons some-  
 ‘ times possessing, and always having a  
 ‘ chance of possessing a share of both.’

The author proceeds, ‘ The legislative  
 ‘ body should not assemble of itself. For a  
 ‘ body is not thought to have a will, but  
 ‘ when it is assembled ; and if it were not  
 ‘ to assemble unahimously, it would be dif-  
 ‘ ficult to know, which was the legislative  
 ‘ body, the part assembled, or the part not  
 ‘ assembled. If it had the right to prorogue  
 ‘ itself, it might never be prorogued : this  
 ‘ would be dangerous, in case it should ever  
 ‘ attempt to encroach on the executive power.  
 ‘ Besides, there are seasons, more convenient  
 ‘ than others for assembling the legislative  
 ‘ body. It is necessary, therefore, that the  
 ‘ executive power should regulate the time  
 ‘ of convening, and the duration of those  
 ‘ assemblies ; according to the circumstances  
 ‘ known to itself.’



The necessity of putting the legislative in any respect, under the direction of the executive power, is an absurdity so gross, as to deserve no consideration. The representatives of a free nation should meet at stated times ; execute the business before them ; and adjourn, without the interposition of the executive magistrate. Extraordinary occasions may require extraordinary measures ; and for them no provision can be made.

That a parliament would never prorogue itself, if its sessions were in its power, is not only contradicted by facts : but in the present case, furnishes no argument. Parliaments are chosen for limited periods ; when these periods are terminated, the assembly is no longer legal or constitutional. But it may continue its sessions. So it may, if called by writs from the executive power. It is not the manner of summoning parliament ; but another cause that may dispose it to usurpation. The royal prerogative of determining its sessions, being assumed on false pretences, or as a remedy for evils to which

which it is not competent ; being actually used for various or pernicious purposes, it should be disallowed in every constitution having liberty for its object.

The author affirms, ‘ if the executive  
‘ power had not the right of putting a stop  
‘ to the proceedings of the legislative body,  
‘ the latter would become despotic.—But it  
‘ is not proper that the legislative power  
‘ should have a right to stop the executive.’

The reason assigned, is among the many proofs the author affords, that the line dividing ingenuity and sophistry, is nearly imperceptible. ‘ For, he says, execution has ‘ its natural limits.’ So has deliberation, council, and every thing essential to legislation. The reason is to be found in the disproportionate power or influence of the crown, resting on the aristocracy ; from which the commons of Great Britain, have never, for one moment, been emancipated. But the evil lies deeper than the author seems to have penetrated.

Harmony of powers in political constitutions, cannot result from regulations  
affecting



affecting their respective operations: all powers should be the result of arrangement and organization in the people ; be attached to the community, as members are to a body ; depend on its general sensibility, judgment, or will ; and be confined to their respective operations by its general force.

‘ But, if the legislative power, in a free government, ought to have no right to stop the executive, it has a right, and it should have the means of examining, in what manner the laws have been executed ; an advantage, which this government has over that of Crete or Sparta, where the Cosmi or Ephori gave no account of their administration.’ — This seems as unnecessary as the controul of the executive power over the legislative. If the instruments ; the servants, of the public offend—they are accountable—not to each other—for no fair account would be obtained : — but to the community. It may be said—communities are not in circumstances to demand or receive such accounts. This may be true ; without affecting the reason or propriety of  
the



the argument. In private life, lords of extensive inheritances, may not be in situations to render their servants accountable, but we do not doubt the right; or the possibility and propriety of acquiring it. Stewards and servants, like the legislative and executive powers, may be suffered reciprocally to check and contend, or to form combinations and collusions.

All delegations, suppose a reserved power, superior to any that may be delegated. It would otherwise be, not a delegation, but transfusion of power, which no society, or individual can perform.

The strong, unsophisticated minds of our Saxon ancestors, clearly perceived the truth. The executive and legislative powers, were accountable to the Saxon nation; which assembled once a year; and solemnly revised the actions of the king, and his council; of the assembly of wise men, or law-givers; and the decisions of the courts of justice.

It is no objection;—that the Saxon nation was not numerous. The principle I  
would

would establish is, that all delegated powers, are accountable to those who assign them ; not to each other.

If proofs were necessary on the subject, we might appeal to the experience or observation of every man who has attended to the events of this country in the most favorable periods of its history. The contentions of parties, which have held the state in successive paroxysms since the Revolution, suppose all ideas of delegation obliterated.

A description of the House of Commons, at any time ; consisting of dependants on the crown, or the nobility, and of adventurers who have dishonored the character of Englishmen in every quarter of the globe ; could not be given by me, with that temper which I wish to preserve in exercises of this nature.

The mischief, it may be said, is to be referred to the people ; for they have elected these persons. I will content myself with saying, this objection is dictated by ignorance of the manner in which all  
English



English elections are conducted, or by a disposition unfriendly to the interests of mankind. If any man, will stake a consideration equivalent to the trouble, I will engage to prove, beyond all question or doubt, that from the revolution to this day, the most distinguished period of English history, the walls of St. Stephen's chapel have not been honored with six members, in any parliament, elected, appointed, or delegated, by their constituents.—I mean this, not only as an answer to the insinuation; but as a species of defiance to those youthful combatants, who would wrest the sentiments of the author to the purposes of existing parties, or prevent the correction of public disorders, by referring the causes to the people.

Since I have had the capacity of attending to events, this country has exhibited the most ridiculous contradictions, which have ever disgraced the political world. With the reputation of being free; it has a power within it, that can keep the nation perpetually

tually embroiled: the necessity of preventing vengeance for acts of injustice; and all the wars I recollect have been commenced by British acts of injustice; has obliged an astonished people to acquiesce in silence, while their pretended representatives, and ennobled oppressors, have devised all imaginable means, to deprive them of the fruits of their industry, and to load posterity for ages with insufferable burthens. With the reputation of enjoying civil liberty, and the right of being adjudged by laws to which all the citizens have given assent—it has no representation. I repeat it, that the English nation is not represented. I will not say, it is partially or imperfectly: but it is not represented.

The difference between the government of France and England is not, the one is free, and the other is arbitrary. They are both arbitrary: and the moderation of the one, compared with that of the other, is owing to the greater extension of the aristocracy in England than in France. The  
power



power of oppression in France is confined to the king and nobles. In England it is extended into several inferior ranks. And the birds of prey, being in constant contention, benefits and advantages escape them, which they would not wish to allow.

Besides, if the executive power had its prescribed limits, if the privileges of nobles were defined — if the commons were justly and fairly delegated — where is the reserved force, in the community, to keep the servants of the public to their engagements, or to punish them when they turn their weapons to the vitals of their country? — It is not to be found. We deplore calamities which are daily accumulated — by whom? By our servants. — And the only hope we have is — these servants may disagree in dishonesty ; — or they may call each other to account. If this be a free constitution of government, I know not how to define slavery.

As I have assaulted your strongest prepossessions, I expect your arguments will  
be

be tinged with passion. I hope, on your own account, you will recollect, my object is to expand your minds ; and that I have no interest in your political opinions.

LECTURE



LECTURE XIV.

CONSTITUTION OF ENGLAND.

PART. III.

SPIRIT OF LAWS. BOOK XI. C. 6.

ON the subject of enquiry into the conduct of the executive power, we have seen that Montesquieu, delineates the defects of the English Constitution, as excellencies or beauties.

He observes, ‘ whatever be the event of  
 ‘ that examination, the legislative body,  
 ‘ ought not to have a power of judging the  
 ‘ person, nor of course, the conduct of him  
 ‘ who is entrusted with the executive power.  
 ‘ His person should be sacred ; because, it  
 ‘ being necessary to prevent the legislative  
 ‘ power from becoming arbitrary—the mo-

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‘ ment

‘ ment he is accused or tried, there is an  
 ‘ end of liberty !’

There can be no doubt, that the legislative power, should not judge the person, or conduct of the prince. This, I have observed, is a servant judging a servant ; it must give rise to acts of atrocious injury, or infamous collusion. But it does not follow, the person of the supreme magistrate is sacred, or his conduct inscrutable. All powers must be accountable ; except those of the whole community ; where alone supreme uncontrollable faculties can be entrusted ; because there alone they are sufficiently counterbalanced by the principle of self-preservation, or the sense of general interest. If delegated or inferior powers, be detached from the body, or rendered independent and arbitrary, every accurate idea of political liberty is lost. The absurdity is thought to be meliorated in the administration of the English government, by attempts to exhibit the supreme magistrate as a toy, inclosed in a political casket, carried by men, disposed to answer for actions committed



mitted in his name, for the emoluments attending them. This can impose only on ordinary intellects. For the idol, like Pygmalion's statue, is touched into life, or animated by passions: he dismisses his officious bondsmen; or launches on the impetuous stream of power. Here, all idolatry, all ideas of sanctity, must cease in the most slavish or superstitious minds: the idol is descended from the altar; and by taking on him the offices, he has assumed the responsibility of his function.

A king, who discharges the duties of an executive magistrate, must be accountable; or the Constitution is not free. The chicane or legerdemain of something, neither divine nor human, in an order of intellects, generally degraded and destitute of virtue; to render a being deemed sacred and irresponsible, accountable by means of others, whom he may or may not employ; would hardly impose on the understanding of a negroe, who had not been early initiated in sophisms of vicious policy. Yet, writers of reputation have imagined fundry reasons

for this exemption, which they announce as of great weight. Our author's argument is not founded, because the legislative power can have no right to judge the executive, or the executive to judge the legislative. But it is apprehended, every act of justice on an offender of such dignity, would convulse or endanger the state. When the honest country-man in the fable, had brought the serpent into the recesses of his family, and committed all he held dear into his power, it was with danger to the whole, he inflicted the death he merited. A prince may be suffered to draw to himself as much of the force of the community, that it may be dangerous or impracticable to render him accountable. This may prove, the community has been criminally negligent; but does not invalidate the general argument. The Saxon kings, submitted their conduct to examination, so frequently; the submission was deemed so reasonable and just; that the truth is barely discernible, among other common facts, in the records of their times. But when  
Charles



Charles I. suffered a death, which his actions had a thousand times deserved, the state or Constitution was convulsed; all the world regarded the incident with astonishment or indignation. What constitutes the great distinction in acts of a similar nature, under similar forms of government? The Saxon kings were adjudged by the Mycelgemot; an assembly of the nation, or if its immediate and actual representatives, for the purpose of revising executive and legislative transactions. Charles I. was murdered, because brought to the block by an assembly, whose pretensions, even to legislative authority, were questionable. If Charles had been led to justice, by a deputation of the community, assembled for the purpose; the act would have astonished tyrants, and been honored eternally with the applause of reason.

It is a principle of political science—that the judiciary power, should not be united to the legislative. But the irregularities of English practice having often united these powers, he says, they may be admitted as

exceptions to general rules. In politics as in grammar, when treated scientifically, general principles have no exceptions. It is when imperfect languages, or imperfect constitutions, are to be described, that such exceptions are admissible. If grammarians were to exhibit the Greek or Latin languages, as Montesquieu has described the English Constitution, they would be liable to similar animadversions.

No grammarian has been guilty of such absurdity. The languages have been delineated, as they are; and imperfections stated, as exceptions to their general rules. That should have been the author's method. But he states abuses or evils, as necessary appendages to fundamental principles; and contributes his influence or authority to perpetuate them.

He affirms, ' though, in general, the judiciary power, ought not to be united to any part of the legislative; yet this is liable to three exceptions, founded on the particular interest of the party accused.'—  
' The great are always exposed to popular  
' envy;



‘ envy ; and were they to be judged by  
 ‘ people, they would be in danger, and  
 ‘ would not enjoy the privilege of the mean-  
 ‘ est subjects of a free state, that of being  
 ‘ tried by their peers. The nobility, there-  
 ‘ fore, should be cited, before that part  
 ‘ of the legislative body, which is compos-  
 ‘ ed of the nobles.’

If the nobles owe their honors and privileges to any circumstances which have ill-effects on public virtue, the order is an evil ; the object, not of envy, but of detestation. It must be from this consciousness ; not for the reasons assigned by the author, that the aristocracy has been detached, in respect to crimes, from the general power of the community.

The laws of a free country, are for all its citizens, without exception even of the supreme magistrate. It implies a great absurdity, that among the privileges of an order, distinguished by the rewards of merit, it should be necessary to obtain an exemption from the laws ; or a power of screening itself from punishment. If all de-

nominations of offenders, were to be tried only by men of the same description ; highway-men or foot-pads for instance, and they have exactly the same pretensions, under the general rule of being tried by their peers ; no society could subsist. The law must level all distinction, or the society cannot be free. The pretence of envy is puerile, in a matter of so much magnitude ; and the privilege of certain orders, to adjudge their own actions, because, in a free country, men are to be tried by their peers ;— is a sophism ; though perhaps in our author's best manner.

I might appeal to facts, for the justice of these observations. The histories of all the nobility in Europe, would be series of proofs, that the power of adjudging their actions, amounts nearly to an exemption from civil obligation. In England, it has been felt with peculiar detriment ; not only as an offence against the general spirit of the Constitution ; but because, no remedy, no satisfaction could be obtained, if the nobles chose at any time to screen an offender



der of their own body. In other countries, the power of the prince, might effect what the laws durst not attempt. In England, the king having no such power, the nobles have the intire regulation of their actions, and the disposal of their lives.

That in particular cases, they have adjudged, with justice or magnanimity, is true: and I would record such actions, to the honor of those immediately concerned. But the instances furnish no objection to my arguments against the privileges of the order.

The author observes, ‘ it is possible, the  
 ‘ law which is, at the same time, clear sight-  
 ‘ ed and blind, may in some cases, be too  
 ‘ rigorous. But the national judges, as we  
 ‘ have already observed, are only the mouth,  
 ‘ pronouncing the words of the law ; pas-  
 ‘ sive beings, who cannot moderate its force  
 ‘ or severity. That part of the legislative  
 ‘ body which we have already observed to  
 ‘ be a necessary tribunal on another occa-  
 ‘ sion, is likewise necessary on this : it be-  
 ‘ longs to its supreme authority, to mode-  
 rate

‘ rate the law in favor of the law itself, in  
 ‘ adjudging less rigorously than the law  
 ‘ hath adjudged.’

Without animadverting on such conceits, as ‘ that the law is at once clear-sighted and ‘ blind,’ which occur very frequently in the Spirit of Laws, and to which I fear the work owes a portion of its reputation : without insisting on the author’s offence against the first principles of logic, in conferring the attributes of supreme power, merely because it was necessary to the support of his doctrine : I will state what I apprehend to be the history of this privilege of the House of Lords.

Those who attend slightly to the early records of England, must discern the difference between the assembly which assisted the king to form regulations or laws ; and the general folk-mote, or assembly of the whole nation, to which all appeals were made, on the apprehension of abuses in the executive or legislative powers. In this assembly, all orders were blended ; the king and the nobles, having only the rank of free-



freeholders. In a state of simple and virtuous manners—I speak of political manners only—abuses were so uncommon, that the folk-mote appeared unnecessary; and the trouble or expence of attending it being considerable, those only who were in easy circumstances, or were stimulated by a love of power, would be likely to compose it.—We find intimations, in early writers, which fully warrant this supposition. For they hint at numerous complaints, that the inferior freeholders were negligent in their attendance, or considered it a burthensome duty. Even the nobility were so little aware of the privilege of monopolizing the business of the folk-mote, that they often devised methods to force the freeholders to submit to the common inconvenience. At that period, the political liberty of the nation was lost. For having no idea, perhaps, of acting by delegation; having none which extended further than the Constitution of a legislative assembly — the inferior freeholders, by deserting the folk-mote, gave up that controul, which the people should possess over

over all branches of government in every free state.

Things were in that condition, when the Norman conquest annihilated popular power. The assembly of the nobles, in which the king presided, constituted the government. And when oppression produced claims for the restoration of the Saxon Constitution ; it was effected reluctantly and imperfectly. The right of appeal from the decisions of inferior courts, which had been to the general assembly of the nation, according to the genuine spirit of the Saxon government ; was directed to the body of nobles, where it had been found by the Conqueror, from the negligence or indolence of the Saxon freeholders.

This appears to be the history of the high privilege enjoyed by the House of Lords, of rejudging causes, and of confirming or reversing decrees. The Lords act as English Freeholders ; as every English Freeholder has a right to act, according to the original plan of the English Constitution. They formed the only remnant of the great folk-mote,



mote, at the conquest; and the same spirit of liberty which claimed a right of appeal to them, if it had been instructed, would have insisted on that of appealing to the whole nation, or to an assembly formed out of it, wholly for that purpose.

The reason, in an ensuing paragraph, for constituting the House of Lords, the dernier resort for justice, and the court in which state criminals are tried;—is rendered dazzling to feeble intellects, by a compliment to the English Constitution, at the expence of ancient republics. ‘ Here, says the author, is an advantage which this government has over most of the ancient republics, where the abuse prevailed, that the people were at the same time both judge and accuser.’

It is inaccurate to assert, the people of any ancient republic, were either judge or accuser: for the idle or tumultuous rabble forming their assemblies, constituted only a small and profligate part of the state. They were partizans of particular demagogues; enlisted in the perpetual warfare which  
subsisted

subsisted among those who wished to rule or plunder the Common-wealth. Let a method be devised, by which all the members of a society, may combine, so as to have a general sympathy, and to express a general opinion or judgment: though such a society can never become an accuser, it must be the only judge; or have in itself alone the power of constituting a judge of the merit and demerit of its political members. This power is not conferred on the House of Lords, by any act of the community on record; and has not been obtained by any means, favorable to liberty, or honorable to the English Constitution.



## LECTURE XV.

*CONSTITUTION OF ENGLAND.*

## PART IV.

## SPIRIT OF LAWS. BOOK XI. C. 6.

ON the reciprocal influence of the king, lords, and commons, and its result in the formation of laws, Montesquieu is plausible, but delusive. He attributes the prerogative of the king, and house of lords, to reject bills formed by the commons, to a wise provision in the constitution. It is known to be a remnant of tyrannic and aristocratic power. That it may be useful to submit the resolutions of one assembly, to the revival of another, is a general truth. But the author does not applaud the provision,

vision, on account of such utility. He imagines a species of enmity, to be necessary, in the several divisions of free governments; and he displays some mechanic ingenuity or taste, in balancing the contending movements arising from it. It may be true, that governments, as well as machines, are constructed unskilfully; and that forces which should combine, may reciprocally obstruct or destroy the general effect. But these defects are not essential or inevitable: and it is unphilosophical; it is injurious to the interests of mankind, to argue in such cases from facts to principles.

What artist would affirm, because attempts to combine forces in mechanics, do sometimes destroy them,—that all resisting forces are inimical, and all methods of multiplying them dangerous, or useless? In politics, the statesman would be contemptible, who should call that resistance inimical, which is necessary to the firm or essential combination of political powers—because in awkward constitutions formed by rude or ignorant savages, the divisions of the state  
have



have not been balanced ; or do not move in harmony.

If a community were fairly or equally represented, in an assembly for the sole purpose of legislation : it would not admit the executive magistrate, or a privileged body of nobles, to reject its resolutions. But the fact is otherwise in England : and it has not the slightest effect on the general, incontrovertible principles of political liberty. The English House of Commons is not, never has been, a representation of the people : it has ever been an appendage of the crown, and the aristocracy. It was first allowed to present petitions ; which were admitted or rejected, at the pleasure of the king and nobility.

As the commons acquired wealth, they changed the style of their transactions : but they are not emancipated from ignominious bondage. This is the origin of the powers which controul or reject their resolutions ; not any scientific idea in those who formed the Constitution to poise or balance its parts.

There is something fanciful in the author's transition to the government of Rome; and in the advantage he allows to that of Britain, on account of an abuse or absurdity.

Notwithstanding the high reputation of Montesquieu's reflections on the rise and fall of the Roman empire, I cannot acquiesce in all his opinions on the subject. And I wish you to consider them.

' The change of government at Rome, was owing to this; neither the senate, which had one part of the executive power, nor the magistrates who were intrusted with the other, had the right of rejecting, which was entirely lodged in the people.' This single sentence, contains sufficient cause of the dissolution of any government, without having recourse to assistances from the author's imagination. The executive power, was claimed and exercised by three divisions of the republic; the senate, the magistrates, and the people. That circumstance would have destroyed the Roman republic, in its infancy, if not prevented by external causes.

It



It may be said, with some colour of reason, that the people cannot deliberate, invent, or debate: that it belongs peculiarly to them, to admit or reject, the general resolutions of privileged assemblies. This is not the proper office of a community, organized for the purposes of liberty. But the author always substitutes the rabble of the forum for the Roman people.

Montesquieu sums up his observations, in the following words. ‘ Here then is the  
 ‘ fundamental constitution of the govern-  
 ‘ ment we are speaking of. The legislative  
 ‘ body, being composed of two parts; one  
 ‘ binds the other, by the mutual faculty of  
 ‘ obstructing. They are both united, by  
 ‘ the executive power; which is itself bound  
 ‘ by the legislative.’

It may be true, that tyranny is moderated, by division. The Peruvians had some respite of misery, while the Spaniards were divided by the interests and ambition of their leaders. The faculty in the contending parties, of checking each other, and producing

a suspension of cruelties on the inhabitants, might have been denominated the fundamental constitution of Peru ; as any similar faculty in the contending parts of the English legislature, may be deemed the fundamental Constitution of England. The constitution of a state, like that of a body, is to be found in the arrangement, and organization of its parts: and no traces of such balances, or measured powers of opposition, as the author hints at, are discernible in the original sketches of the English government. The fundamental, or essential principles of this constitution are, that every Englishman is free—that in chusing a supreme magistrate, or in delegating the power of legislation, he submits his actions to a superintendence, in order to prevent liberty from passing its bounds, and introducing general injury or violence: that the power of the prince or of the legislature, though sufficient to keep any individual to his duty, or to controul any class or association in the community, is always inferior to the force which the whole might exert ; and is  
amen-



amenable to that community—either in an assembly of the nation, or in a deputation formed for the purpose. This is the fundamental Constitution of England.

It was not till political liberty was lost ; —till tyranny had defaced the original fabric, a substitute was imagined, in the combination of parts of a legislature, or government, detached from the community, or independent of it ; which is never beneficial, but when agitated by discord ; and is never in unison or harmony, but when influenced by intrigue or collusion.

I perceive myself on tender ground. You have been taught to venerate the English Constitution ; as the object of envy in surrounding nations. I am sorry they are in circumstances to envy us. Ignorance or dishonesty extols it as admirable or blameless. Reason and philosophy cry aloud ! Perfect your Constitution, ye hardy sons of Albion ; be no longer content in a state of faction, jealousy, and alarm !

Montesquieu adds.—‘ These three powers  
‘ should naturally produce repose and in-  
O 3 ‘ action.

‘ action. But as, by the necessary motion  
 ‘ of things, they are constrained to move—  
 ‘ they are forced to move in concert.’

Though the whole of the sentence be not intelligible to me, it has often been quoted with admiration. If the author alludes to mechanics, he is destitute of classic elegance and accuracy. The resisting or balanced parts of machines are to create, to accelerate, or perpetuate motion ; not to produce inaction or repose. As to the necessary motion of things—I will not lead your enquiries concerning it, into the remote regions of metaphysics. You may be assured, the fabricators of the English Constitution, or of its spurious substitute, were never there, to obtain assistance in giving motion to a complicated and balanced machine.

Montesquieu’s observations on military force, are deduced from the practice, not the genius or spirit of the British Constitution. He seems embarrassed, when reducing facts into maxims : at one time, he says, ‘ if there be a standing army composed  
 ‘ of the most despicable part of the nation,  
 ‘ the



‘ the legislative power should have a right  
 ‘ to disband it at pleasure — at another,  
 ‘ as soon as the army depends on the le-  
 ‘ gislative power, the government becomes  
 ‘ military.’ He alludes to the practice  
 in England, of consigning the military  
 force to the executive power, while the le-  
 gislative apparently holds the purse. But  
 that is illusion: if the influence and in-  
 trigues of the crown, were not to succeed  
 in procuring supplies, the military force  
 would be competent to the purpose. This  
 is an evil in the present substitute of the  
 English Constitution; a gross and violent  
 deviation from its first provisions, for exert-  
 ing the force of the community.

I shall fully explain the subject, when we  
 treat of offensive and defensive force in free  
 states.

To justify my objection, it will be suf-  
 ficient to refer you to the next paragraph,  
 which acknowledges the English Constitution  
 to be, not a collection of facts, consisting of  
 good and bad principles; good and bad cus-  
 toms; usurpations, or abuses; but a wise,

noble outline, conceived by a free community ; having for its objects the public security and happiness.

Perusing the admirable treatise of Tacitus on the manners of the Germans, we perceive it is from them, the English have drawn the idea of their political government. ‘ That beautiful system was found in the woods.’ — If this be true, the author’s account of the English Constitution, is fanciful or inaccurate.

In Tacitus, there are no sacred personages, who may violate essential principles with impunity ; no ideas of hereditary virtues or hereditary privileges ; and we find the supreme power, where alone it can be intrusted with safety or advantage, in the body of the nation.

He then pronounces the solemn prophetic sentence ; which is held out as an awful admonition to this country, by those who wish to reform its errors ; and by those under the masque of patriotism, who are actuated by ambition or avarice. ‘ As all human  
‘ man



‘ man things have an end, the state we are  
 ‘ speaking of, will lose its liberty—will pe-  
 ‘ rish. Rome, Sparta, and Carthage have  
 ‘ perished. It will perish when the legisla-  
 ‘ tive power becomes more corrupt than the  
 ‘ executive.’

This prophecy, has some of the mysterious  
 or enigmatical properties, which have ever  
 given importance to oracles. It is probable,  
 that all human institutions have such imper-  
 fections as will bring on their dissolution—  
 he is therefore safe, in saying authoritatively,  
 ‘ the state we are speaking of will lose its li-  
 ‘ berty—it will perish.’ Sciences, however,  
 are human inventions, and not perishable.  
 Though no particular state may be immor-  
 tal ; its government may be constructed on  
 eternal principles.

In assigning the causes of this catastrophe,  
 he has all the art of the mystic—for he points  
 out a cause which cannot be ascertained: it  
 cannot always be known, when the legisla-  
 tive power is more corrupt than the execu-  
 tive. If it be true, ‘ the receiver is worse  
 ‘ than

‘ than the thief;’ the corruptor, than the corrupted — it is an evil that can never take place.

A government depending on the balance of powers surreptitiously obtained, and in their general operations unfriendly to to public happiness—must be precarious or fluctuating; as we find it in fact: and being always disordered, it is always in danger. But the original Constitution of England; as is often the case of noble and excellent natures, contracted in early youth, the disorder which may effect its dissolution. When the nation became weary of superintending its affairs, that disorder took place: deputies, or servants assumed the prerogatives of masters. The divisions or contentions of these illegitimate powers may suspend or mitigate the mischief; but they are slight securities: either a general collusion; or one iniquitous power will extinguish the appearance of liberty; and obliterate the venerable outlines of our ancient Constitution.

I will



I will not take advantage of the author's apparent anxiety to prevent the suspicion of depreciating other governments. — But I cannot pass his reflection on Harrington. In the last paragraph of this extraordinary chapter, he says, 'Harrington, in his Oceana, has also enquired into the highest point of liberty, to which the constitution of a state may be carried.' Surely this is not the case with Montesquieu; or I do not understand a sentence in the Spirit of Laws. To whom does he refer; when he says, Harrington also pursued the same enquiry? He adds, 'but of him (Harrington) it may be said, he sought that liberty, after having mistaken it; and that he built Chalcedon, though Byzantium was before him.'

The plan of the Oceana is, perhaps, the best imaginable to improve the institutions of mankind. The author, in the history or experience of the world, seeks principles, which he holds out as data in political science. He turns his attention to celebrated governments, ancient and modern; and points out the parts where principles have effect,

effect, and where they are obstructed by interests or passions. He offers various modes, some probable, some perhaps improbable, to remove the obstructions.—This is certainly a nobler design than that of the Spirit of Laws ; though the execution be not so brilliant or captivating. Harrington is the bold, enterprizing artist, who offers in a rude impetuous manner, models as improvements of common or hasty designs. Montesquieu, delineates or describes what has been done ; and imagines views or talents in their original authors, which they never possessed. Harrington is an inventive genius ; but ungraceful in his sketches, wild in his fancies ; and inelegant in his wit. Montesquieu, is like those who now give impressions of antiques, and assume the fame of Greek or Roman artists, for the skill of servilely copying their designs.

The circumstance which Montesquieu points out at the reproach of Harrington, is, in my opinion, his merit :—and when the remote and full effects of American institutions take place, it will not be a question, who



who has been the greater benefactor of mankind, Harrington, with all his extravagancies and faults—or Montesquieu veiled in the garb of prudence, ornamented with the wit or learning of a classic.

LECTURE

## LECTURE XVI.

*Disposition of the THREE POWERS in various Governments, Ancient and Modern.*

SPIRIT OF LAWS. BOOK XI. C. 7.

**B**EFORE the art of forming centres, the construction of an arch depended on the dexterity with which the workman could balance, adjust, or cement the materials. These circumstances are matters of inferior importance at this time: for the centres being formed, the arch is thrown over with certainty and ease. It is so in politics—while men are ignorant of any mode of forming the body of the community; to give it perpetual intelligence, will and force; the distribution or balance of legislative, executive, and judiciary powers, may constitute political science.

I speak



I speak at a considerable disadvantage on the subject. It is proper men should consider all objects beyond their view, as problematical: but it is not necessary, they should treat contemptuously, all deductions or conclusions which their understandings have been unaccustomed to form.

Proposals for suspending arches over wide or formidable torrents, and the principles on which they might be constructed, were treated as visionary or impracticable, for ages, before any artist was enabled to build a bridge.

If, in the principles, or combinations of such a design, the world has been susceptible of slow, inconsiderable improvements—shall we wonder, in attempting to arrange masses of such weight or magnitude as human societies, every movement should be regarded with doubt or apprehension; as implying courage bordering on presumption in the person suggesting improvements; or because the fate of numbers, must be affected by the smallest alteration?

The

The condition of human societies, is at such a distance from a state of political or civil liberty, that I have not presumed to wish my speculations may be reduced to practice. I offer them to your consideration : they may exercise your talents : they cannot be confuted, or even rendered ridiculous without benefit to political science.

I consider politics, in the works of Montesquieu, analagous to the condition of machines, when every thing depended on the manual dexterity of the artist ; who was not, as he is at this time, the instrument of science.

This I shall endeavour to prove, when I have taken up some scattered observations, strewed in the way of the political student ; and affecting his judgment or opinion.

Europe, Africa, and Asia Minor, had been long occupied by little republics ; when they were absorbed by Rome, and formed into one state, improperly called a Commonwealth. Monarchies in those countries, are not to be traced beyond the ravages and establishment of northern Barbarians.

‘ When



‘ When they were in Germany, says Montesquieu, the whole nation could assemble: this they could no longer do, when dispersed through the conquered provinces.

‘ Yet, as it was necessary the nation should deliberate on its affairs, as it had done before the conquest—they had therefore recourse to representatives. Such is the origin of the Gothic government among us. It was at first compounded of an aristocracy and a monarchy; and had the inconvenience, that the common people were slaves: it was a good government that had in itself a capacity of becoming better. The custom took place of granting letters of enfranchisement: and very soon, the civil liberty of the people, the prerogatives of the nobility and clergy, and the power of the kings, were found so perfectly in concert, that I do not believe there has been on earth, a government so well tempered at that of each division of Europe, during the time it subsisted:—and it is wonderful, that the corruption of the government of a con-

‘ quering nation should have formed the  
 ‘ best species which has been imagined by  
 ‘ man.’

It does not appear, civil liberty was extended to the whole, or to the greater part of the community in any period of the feudal government.—The method of acting by representatives, to which the Germans had recourse, when formed into great nations, in the extensive and fertile provinces of the Roman empire, had little analogy with the English legislature.

The nation was assembled ; not to enact laws for the ordinary purposes of government ; but to inspect, controul, or punish legislators and magistrates. All freeholders were members of that assembly ; but in extensive or populous communities, it became inconvenient to attend ; and the mode of deliberating or acting by representation was devised. As the majority of the inhabitants were not citizens or freemen ; as processes or adjudications were made by customs of the manors, or the caprices of chieftains ; though the conquerors enforced th  
 principles



principles of political liberty, the community was in a state of civil slavery. Trade or commerce, collecting the industrious into villages or towns, and purchasing protection or immunity from the crown, gradually introduced the species of representation, which forms the House of Commons in England.—The first representatives were deputies from the king's tenants; from towns or villages under his protection: and their object was to settle the taillage. They gradually presumed to present petitions, or state grievances; and being joined by the knights of the shires, assumed a considerable share in legislation — Montesquieu was not acquainted with the distinction in the modes of representation; or he overlooked it as of no importance. But if he means, the Gothic or feudal government, in any period, is the best imagined by man; he is contradicted by the clear evidence of history. The relation of the conquering Germans to the numerous inhabitants of the countries they conquered, was precisely that of the Spartans to the Helotes.

The proprietors of land were free; but its cultivators, laborers, all mechanics and artists, were in slavery. The harmony of the civil liberties of the people, and the privileges of the clergy, nobility, and kings, is to be found only in the ingenious compositions of the author; from which they have been transferred into solemn prefaces of histories, and delusive or futile essays on chivalry and romance.

Montesquieu, in the ix, x, and xi. chapters, considers some opinions of the Greeks, respecting monarchy. He observes, in the monarchies of the heroic times, ‘ the three  
 ‘ powers were distributed in such a manner, that the people had the legislative  
 ‘ power, and the king the executive,  
 ‘ and judicial. Whereas, in the monarchies  
 ‘ we are acquainted with, the prince is invested with the executive and legislative  
 ‘ powers, or at least with part of the legislative; but does not assume the power  
 ‘ of judging. In the government of the  
 ‘ kings of the heroic ages, the three powers  
 ‘ were improperly distributed. Those monarchies



‘ archies could not long subsist ; for when  
 ‘ the people obtained the power of legisla-  
 ‘ tion, they might, as they always did, on  
 ‘ the least caprice, subvert the regal au-  
 ‘ thority.’

But he does not inform us, in what consists the superiority of modern monarchies. If the executive power, which is ever the object of his indulgence or favor, is not only to be absolute within its own province, but to participate the authority of other departments ; it may be difficult in some cases, to distinguish the greater injury in its legislative, or in its judicial interference. If I were to chuse of the two evils, I would determine with the ancients : I would emancipate the legislature, as the source of civil liberty ; the courts of judicature being only the channels through which it is conveyed.

When the interposition or agency of the people is mentioned, the author betrays apprehension or pre-possession unbecoming his abilities or character. Because the interference of the populace, driven to desperation by the iniquities of governors, has

in all cases been violent or injurious ; therefore, (according to him) all popular power is to be dreaded, restrained, or annihilated. Yet there seems to be no permanent foundation of political and civil liberty ; but in the collective force of the community ; disposed in such a manner as to preserve it from the usurpations of princes, legislators, and magistrates. The powers of government should be absolute over individuals, classes, or denominations : but they should be controuled or annihilated, when opposed to the general interest, and consequently to the general force of a free state.

This will be understood, if we suppose the army representing the general force of the community ; which, in my apprehension, should be reserved in its own body. If the legislative power incroaches on its limits, and threatens to interfere with the executive or judiciary, in taking away the lives of citizens—where is the resource of modern governments ?—In the army. If the prince should trample on the laws—the first consideration is — what proportion of  
the



the army may be attached to him? If a judge is obstructed in the execution of his sentence; or a justice of the peace, in any of his offices—his last appeal is to the army. Annihilate the political rights of the community; and improving on the hint of an English peer, who is as contemptible in his political as he is captivating in a judicial capacity; imagine the foldiers to be the citizens; the army the body of the people, in whom the ultimate power of the community is lodged: and you will conceive the proper arrangement of all modern states.

The people, are neither the nobility, gentry, clergy, yeomen, artists, merchants, manufacturers, or mechanics—but the spawn of injuries or oppressions in various orders, who are driven into idleness or wickedness, and seek shelter or concealment in large towns: persons of this description, mingled with the citizens in the Roman forum; and perhaps their atrocious outrages on the senate, were not equivalent to the political crimes of a body, which the splendor of the Roman name, or the characters and talents

of particular members, have rendered venerable. They are persons of this description, who crowd to the harangues of modern orators, and dishonor the cause of the people, by assuming the appellation. But let us consider—what can be valuable, great, noble, sacred in a community, beyond its entire or aggregate inclination, will, and interest? Government, in whatever form it be administered, can only be the instrument of the general happiness. Surely the object to be served, is of greater consideration, than the servant appointed to the office.

Throughout the Spirit of Laws, sentiments are betrayed unfavorable to the interests of the most numerous and valuable classes in every community—for the benefit and protection of which, all political institutions should be formed.

Montesquieu enters so warmly into the apprehensions or feelings of modern princes, wholly derived from guilt, that when the people are to be indulged with representation, it is under so many restrictions or cautions for the safety of the executive power,  
that



that it cannot answer any purpose of a free constitution.

Montesquieu's account of the government of Rome, under the first kings (C. xii.) is accurate, like all his historical sketches. But the harmony of powers, in the mixture of monarchy, aristocracy, and democracy, was not owing to the skill or judgment with which they were balanced ; but merely to the wants or difficulties of the rising state ; and to external dangers forcing discordant parts into temporary combinations. This is evident from the conduct of the senate and magistrates ; as the general remedy in Rome for intestine commotion, was a foreign war.

The alteration of the constitution, by Servius Tullius and Tarquin, would not deserve notice ; if the former had not diminished the power of the people, by one of those political artifices which are applauded in courts : and if Montesquieu were not inaccurate in the cause of the expulsion of Tarquin.

Servius

Servius Tullius annexed power to property ; by dividing the citizens in such a manner, that the majority of votes, and the power of the republic, should centre in the patrician and equestrian orders. The people were deluded into a ready and chearful acquiescence, because taxes were to be levied principally on the estates of the rich : as if any thing could have been a compensation for the loss of their political weight in the common-wealth. In struggles for its recovery, the state was perpetually convulsed ; and at last violently perished.

According to Montesquieu, the legislative, executive and judiciary powers were, by Tarquin united in his person, ‘ but the people ‘ recollected, for a moment, they were legislators ; and there was an end of Tarquin.’—The cause is not equal to the effect. It was not as legislators, but as the supreme or ultimate power of every community, that the Roman people expelled Tarquin, or changed the form of their government—and every constitution is proportionably imperfect,



fect, as a similar event may be impracticable, or difficult.

After differing from the author, in several circumstances, it may gratify you, as it always does me, to recollect the following just and beautiful passages (C. xiii.) ‘ A state  
 ‘ may change in two ways, either by amend-  
 ‘ ing or corruping its constitution. If the  
 ‘ constitution changes, and it preserves its  
 ‘ principles, it is owing to its amendment.  
 ‘ If on changing the constitution, its prin-  
 ‘ ciples are lost, it is owing to its corruption.’

‘ The prosperity of states, is frequently  
 ‘ greater in the insensible transition of one  
 ‘ constitution into another, than in either of  
 ‘ those constitutions. It is at such periods,  
 ‘ all the springs of a government are stretch-  
 ‘ ed ; that every citizen forms pretensions ;  
 ‘ that the people attack or caress each  
 ‘ other ; and there is a noble emulation be-  
 ‘ tween those who defend the declining,  
 ‘ and those who endeavour to promote the  
 ‘ new constitution.’

LECTURE

## LECTURE XVII.

SPIRIT OF LAWS. BOOK XI. C. 14.

**M**ONTESQUIEU proceeds to examine in what manner the legislative, executive, and judiciary powers were distributed in Rome, after the expulsion of the kings.

It is not necessary to follow the author in detail: 'Four things oppressed the liberty of Rome. The Patricians had engrossed all sacred, political, civil, and military employments; an exorbitant power was annexed to the consulate; outrages were committed on the people; and they had hardly any influence in the public suffrages.' —He adds—'these four abuses were redressed by the people.' If that had been the case, Rome would not have been the theatre of unceasing, rancorous contention.

By opposing violence to artifice or systematic oppression, a species of populace, called



led the Roman people, often obtained their objects, right or wrong ; injurious, or beneficial. But they never opposed method to method ; and though they exercised acts of despotism, were never in a state of political freedom.

The division into tribes ; and the manner of voting, was suited to the part first allotted them in the monarchy. When the arrangement into centuries took place, the influence of the lower orders was annihilated.

The radical defect of the Roman constitution, consisted in the invariable and direct opposition of interests between the Patricians and the populace. Every alteration ; not having a tendency to remove the causes of opposition, either multiplied them, or afforded parties temporary advantages in their inimical proceedings.

When the senate had engrossed the power of the community, the populace, who had the same object, broke in forcibly on that iniquitous body ; and participated the authority by which they had been oppressed.

The

The right of that participation, seems to have been the idea of liberty entertained by the Roman populace: and they exercised, in a direct or immediate manner, legislative, executive, and judiciary powers.

The contentions in Rome, never arose from actions really popular, or from expressions of general sentiments and will in the community. An ambitious aristocracy, and a political rabble, held the city convulsed, for the exercise of similar powers: the Roman Commonwealth was therefore never in a state of political freedom.

This furnishes an answer to a question often insultingly proposed by the friends of detached, independent, or arbitrary powers.

‘ If all power should spring from the people;  
 ‘ and in them alone, or under their control,  
 ‘ be secure, and free from abuse—why  
 ‘ was the government of Rome never at  
 ‘ peace within itself, and ineffectual as to  
 ‘ public purposes, when the people directed  
 ‘ its operations?’

Whatever may be alledged of the origin of particular societies; their general end;  
 indeed



indeed the invariable pretence of those who assume their powers—is public security or public happiness. If the provisions made with this view, were executed by the whole community, or by the immediate interposition of every individual, society would be dissolved at the instant of its formation ; and what is improperly called a state of nature would take place. Government of some kind must therefore be contrived to execute these provisions, and sufficient powers allotted to effect the specific designs. Thus the members of the community, or the people may pursue their employments and interests, secured or protected against each other, by the provisions of civil government. But if these provisions confer unconditional powers ; if the reserved force of the community should not have easy and prompt methods of checking their perversion or abuse: if instead of being employed to guard citizen against citizen, or class against class, government should aspire to the uncontrouled disposal of the community—what can be done? We know what has been done. The multitude has  
been

been collected; and like a torrent overwhelmed the government: or portions of the people have obtained a composition, and participated in the abuses which harassed the community.

Collusive expedients generally terminated the efforts of the populace in those states of antiquity, denominated free. They had experienced the wanton oppressions of kings, senates, and magistrates with untrouled or arbitrary powers. The inhabitants of the principal towns assembled; intimidated or destroyed their oppressors: and either participated, or engrossed the power of government. The exercise of that power, being inconsistent with the necessary employments of the people, it devolved on limited numbers of the dissipated or slothful; and they transacted public business for a daily allowance of money, or of food: the useful arts were assigned to slaves, and their numbers and support, confining the number of the citizens or freemen within narrow bounds; the governments of antiquity denominated free, were aristocracies  
or



or oligarchies of various descriptions; whose public business was transacted by the most worthless citizens.

If the measures taken in modern times, to introduce popular influence, were to have full effect, the consequences would be as unfavorable to political liberty. The custom of assembling promiscuous multitudes, by a requisition which implies no obligation; collects only idle or desperate adventurers, to receive the lessons of impostors. The sober, prudent, or useful members of the community remain in their proper situations and employments. If public operations could be controlled or directed by these assemblies; the dregs of the community would be its tyrants; and the capital being the asylum of profligacy, and furnishing perpetual successions of tumultuary assemblies, the populace of the capital must govern the state; and a species of tyranny take place, as capricious, oppressive, or ruinous, as that of monarchy or aristocracy.

I am anxious to remove the obscurities of the subject: for having always considered

the safety and happiness of the people, according to their apprehension, judgment, and will; not to those of delegates or rulers—to be the supreme law of a free state—I may have been misunderstood, as wishing to recommend the popular usages of antiquity, or referring the administration of public business to the people. Government is a trust; and the powers of executing it must be committed to parts of the society. I hope to impress on your minds, that the parts entrusted, while they fully govern individuals, or any divisions of the society, are subject to the whole; accountable for the discharge of their offices; and obliged to consult the general interest or happiness, not according to their disposition, but to the will or judgment of the community.

The gentlemen enlisted under the banners of Montesquieu, will ask, how is this judgment or will to be formed or obtained? I have attempted on other occasions to answer the question\*. I may not have succeeded

\* Vid. Letters on Political Liberty.



to general satisfaction : perhaps not to my own. The subject is new, in my apprehension : and I feel the difficulties of making the smallest enlargement in the bounds of a complicated and important science. That the feeling or judgment of the community on its own happiness, is the first principle in political science, — I am obliged to admit, because I can find no other, not immediately involving me in absurdities. That it may be produced and understood, by modes of arrangement or communication in states of any magnitude, I am assured, as fully as deliberate experiments on small masses or bodies of men can prove any general truth. Common objections to experiments on small scales, do not here affect the truth of the problem, as in mechanics or natural philosophy : for men are the materials.

But allowing what is very probable, that any method suggested by me may be wrong — it does not prove, there is not a right method. If I suggest a problem, having an object of the highest possible con-

cern to human society ; it is my misfortune that I either cannot, or have not opportunities of effecting its demonstration. It will properly employ your talents, to shew the errors which impede me. You will, however, observe, that by the reserved, supreme power of the people of every society enjoying political liberty, I do not mean, any faculty warranting the interposition of the whole community, or any part of it at pleasure, in the executive, legislative, or judiciary offices of government. That species of interposition was called liberty in ancient republics. I consider it, among the most pernicious species of usurpation, or tyranny.

In Rome, often governed by a populace, important events, or solemn acts of justice, depended on the art of presenting spectacles.

‘ The bloody body of Lucretia put an end to  
 ‘ the regal government. The debtor, who  
 ‘ appeared in the public market covered  
 ‘ with wounds, caused an alteration in the  
 ‘ form of the republic. The Decemvirs  
 ‘ owed their expulsion to the sight of Virginia. To condemn Manlius, it was necessary



‘ cessary to prevent the people from seeing  
 ‘ the Capitol. Cæsar’s bloody garment sunk  
 ‘ Rome again into slavery.’ (C. xv.)

I believe, the animosity of factions has ever been in proportion to the mischievous nature of their respective claims. The virulence of the Roman populace against the senate, often deprived the members of all the rights of citizens. They wished to transact all public business in their comitia by tribes, where Patricians were not admitted to vote; and to constitute their plebiscita, the laws of the state; as the senate had constituted its decrees. The remedies for these excesses, in the proceedings of censors, and in the appointment of dictators, were temporary or violent; and a dictator at last removed all pretensions to liberty.

Montesquieu (C. xviii.) observes, ‘ the  
 ‘ three powers may be well distributed, in  
 ‘ regard to the liberty of the Constitution;  
 ‘ though they be not in respect to the liberty  
 ‘ of the subject. At Rome, the people  
 ‘ having the greatest share of the legislative,  
 ‘ part of the executive, and part of the ju-

' diciary power ; their weight was so great  
 ' in the government as to require a power  
 ' to balance it. The senate indeed had part  
 ' of the executive power, and some share of  
 ' the legislative (decree of the senate being  
 ' in force for a year, though not confirmed  
 ' by the people)—but that was not suffici-  
 ' ent to counterbalance the people. It was  
 ' necessary the senate should have a share in  
 ' the judiciary power. And it had a share,  
 ' while the judges were chosen from the  
 ' senators. When the Gracchi (in the year  
 ' 630) deprived the senators of the judiciary  
 ' power, it was no longer able to withstand  
 ' the people. But they injured the liberty  
 ' of the Constitution, to favour the liber-  
 ' ty of the citizen. And the one perished  
 ' with the other.'

The internal evils which infested the Ro-  
 man Republic, and destroyed it, were owing  
 to a misapprehension of the nature of poli-  
 tical liberty.

When the government became oppressive,  
 either in the monarch or the senate ; in-  
 stead of delegating a trust with improved  
 securi-



securities, the populace undertook the administration ; and discord, enmity, or confusion ensued.

Montesquieu's opinion of the government of the Roman provinces, would not have had my attention, if Roman policy had not been referred to, in the plan unfortunately adopted by England, to draw a revenue from its colonies.

I do not recollect a circumstance of similitude in the cases. Rome conquered for plunder ; whatever its pretences : and according to the prevailing law of nations, conquered countries were tributary or enslaved. Montesquieu, therefore, might properly say, Rome could not communicate her government to the provinces, or rule conquered states according to the form of her Constitution.

The English colonies were settlements of English citizens ; who would have deserved to be obliterated ignominiously from the earth ; after forming settlements under inconveniences or hardships ; if they had submitted to be the subjects, or the slaves

of the subjects of Great Britain. Ireland has circumstances similar to those of a Roman province. The kings of England obtained it from the original natives, in a manner, often used by the Romans to extend their empire. But the English, who assisted in that possession, by treating the natives as dependent or conquered tributaries, furnished precedents, and prepared a species of thralldom for their posterity.

In Ireland, the mode of government over the tributary natives, was continued, when Englishmen and their dependants became the principal inhabitants of the country. That error has been in some degree rectified; and in a manner which the Irish nation may deem honorable: but having a tendency to disunite England and Ireland, it will not heighten the prosperity and happiness of the British Common-wealth.

LECTURE



## LECTURE XVIII.

## SPIRIT OF LAWS. BOOK XII.

‘ **O**F the laws which form political liberty in respect to the citizen.’

I have had several occasions to observe, that inconveniencies, must arise from applying the phrase political liberty, to the security against abuse of power, which is the primary object of political association; and to the security which is the object of an individual, as a member of society.

I acknowledge the reprehensions I have had on the subject, to be ingenious and learned. Some gentlemen having charged me with such inaccuracy, as must be of importance to the science I would cultivate, I will consider their objections. A learned student has alleged, that the words, political, and civil, are synonymous in derivation. I  
might

might strew over some pages with learning, to disprove the allegation ; as the Greek noun *polis* is a city or community : and the Latin word *civis*, a citizen.—If this be admitted, I have not confounded in language, things separated in idea.

If I had foreseen the objection ; or perceived the ground on which a disposition to it might give me embarrassment ; — I would have substituted constitutional, for political liberty.

According to Montesquieu, political liberty respecting the Constitution, consists in the proper distribution of the three powers : and political liberty, as respecting the subject, in security, or an opinion of security.

Political or constitutional liberty, according to my idea, consists in the security which the whole community has reserved, that its government, formed of three, seven, nine, or any magic number of powers, cannot with impunity pursue any interests separate from those of the public.

Civil liberty, is the security of every citizen ; that another citizen, cannot with impunity



impunity gratify a passion or pursue an interest to his injury, or at his expence.

This distinction in essential, connected parts of the same fabric, would not have escaped the penetrating and singular genius of Sir James Stuart, if the consideration of it had been important to his design.

In a definition of liberty introduced incidentally, he approaches the confines of truth—‘ By a people’s being free, I understand no more than their being governed  
‘ by general laws, well known, not depending on the ambulatory will of any  
‘ man, or any set of men: and established  
‘ so as not to be changed, but in a regular  
‘ uniform way, for reasons which regard  
‘ the body of the society, and not through  
‘ favour or prejudice to particular persons  
‘ or particular classes. In so far, as a power  
‘ of dispensing with, restraining or extending general laws is left in the hands of  
‘ any governor, (he should have added senate or parliament) in so far, I consider  
‘ liberty as precarious\*.’

\* Pol. Oec. B. 2, C. xiii.

All governments of which I have any knowledge, have this power, whether divided or not divided. Society is therefore destitute of political or constitutional liberty.

The science of politics is not further advanced, than the state of architecture when buildings were erected on all surfaces without being secured in their foundations. Civil liberty is in the condition of those edifices, often well imagined, beautifully adjusted to customs, situations, or climates; but liable to inconveniences, and even to be swept from the earth, because not secured by judicious foundations. This is the reason, the introduction of civil liberty into states destitute of political or constitutional arrangements, is attended with few advantages; that those advantages are alloyed by inconveniencies from tumults, factions, or contentions—and that it remains a problem whether liberty be a blessing or a curse.

Montesquieu says, ‘ it is the disposition of  
‘ laws, and even of the fundamental laws  
‘ (it



‘ (it should have been, the faculty or  
 ‘ power in the community, to form and  
 ‘ secure those laws) that constitutes liberty in  
 ‘ relation to the constitution. But as it re-  
 ‘ lates to the subject, morals, customs, or  
 ‘ received examples may give rise to it, and  
 ‘ particular laws may favour it.’

Though it be true, the liberty of the subject depends greatly on the criminal laws, I cannot subscribe to the following opinion.

(C. 2.) ‘ The knowledge acquired in  
 ‘ some countries, or that may be acquired  
 ‘ in others, respecting the best rules to be  
 ‘ observed in criminal judgments, is more  
 ‘ interesting to mankind than any other  
 ‘ thing in the world.’

If the power of forming, extending, or repealing laws be in a prince or an assembly, who may, with impunity consult the interests of particular persons or classes; the community may be in a state of slavery, or in a state of uncertainty, which is equally inconvenient and mortifying, though some of its civil laws, and the rules of administering

nistering them be wise or excellent in the highest degree.

If Montesquieu had suggested only the hints in the remaining chapters of this book, on the nature and end of punishments, he would have highly merited that best reward of genius and humanity, the eternal gratitude of mankind.—It is with reluctance therefore, I take off my eye from the affecting and beautiful passages with which they abound, to point out any thing I may imagine to be an error or defect.

That the object of government is, to prevent rather than to revenge crimes; that the example of the magistrates of China, who are the fathers or instructors of the people, offers interesting lessons to the societies of Europe:—these and similar sentiments have been digested into the following clear, indisputable proposition, by a disciple\*, every way worthy of the immortal Montesquieu.—‘ The punishment of a crime  
‘ cannot be just (i. e. necessary) if the laws

\* Marquis de Eecaria, C. 31.

‘ have



‘ have not endeavoured to prevent the  
 ‘ crime, by the best means that times and  
 ‘ circumstances would allow.’

That the punishment should proceed from the nature of the offence, is a doctrine, to which reasonable and humane minds will immediately assent : and his method of applying it (C. 5.) to religion, morals, public tranquillity, or the security of the subject, is insinuating, interesting, and admirable.

He so carefully avoids any direct opposition to the prepossessions of his fellow citizens—that he uses only the terms circumspection, moderation, and prudence, as requisite in the prosecution of magic and heresy. He atones for the caution, however, by passages producing such effects as the following.

(C. 5.) ‘ We learn in the History of  
 ‘ of Constantinople, that on the authority  
 ‘ of a revelation made to a bishop, it  
 ‘ was believed a miracle had ceased, in  
 ‘ consequence of certain magical practices.  
 ‘ The person accused of them, and his son,  
 ‘ were put to death. On how many pro-  
 ‘ digies

‘ digies did this fingle crime depend?—  
 ‘ that revelations fhould not be uncommon ;  
 ‘ that a bifhop fhould be favoured with a  
 ‘ revelation ; that it was real ; that there  
 ‘ fhould have been a miracle in the cafe ;  
 ‘ that the miracle had ceafed ; that there  
 ‘ were magic arts ; that magic could fubvert  
 ‘ religion ; that the perfon in queftion was  
 ‘ a magician ; and that he had performed  
 ‘ the magic action !’

His caution on the fubject of herefy is rather reprehenfible. ‘ I have not here  
 ‘ afferted, that herefy ought not to be  
 ‘ punifhed. I faid only, that we fhould be  
 ‘ extremely circumfpect in punifhing it.’

The chapter on the crime againft nature, has been objected to, captioufly. The neceffity of instituting a procefs, fometimes, on the testimony of a child, always on that of a fingle witnefs, require all the moderation recommended by the author.

On the fubject of indefinite treafon, that certain fymptom of defpotifm, he produces instances in China ; which would be pertinent, if not of dubious authority. The  
 obfer-



observations on the Roman custom of blending the idea of sacrilege with that of high treason, and extending the sacred properties of princes to their favorites or ministers, are summarily given from Plutarch. (C. 9.) ‘ Paulinus having written to the ‘ emperor Alexander, that “ he was preparing to prosecute, for high-treason, a “ judge who had decided contrary to his “ edict”—The emperor answered, ‘ that in ‘ his reign, “ there was no such thing as “ indirect treason.”

This crime, according to its general definition, should be classed with magic, witchcraft, and heresy. Thoughts, words, and actions respecting sacred qualities existing only in absurd imaginations, are strange subjects of legislation. Offences against fundamental laws ; affecting the essential principles of the constitution ; violations of which, princes, senates, or parliaments alone are capable, should be denominated high treason : and provisions the most effectual, practicable, or easy, should be made for punishing them, in every state, whose object is public hap-

pinefs. Offences againft the perfon, dignity, or fecurity of the civil magistrate, however denominated, are matters of inferior confideration; though not undeferving the attention of the laws.

As thoughts muft appear in overt acts before they become cognizable by civil laws—he juftly pronounces the punifhment tyrannical, inflicted by Dionyfius on Marfyas, for having dreamed that he had put him to death, C. 12.

On the punifhment of words; which are not overt acts, unlefs introductory or joined to actions; the difficulty of recollecting them in evidence; afcertaining their fignification, and the tone or manner in which they may be delivered—his remarks are of the utmoft importance; they are in the interefts of reafon and humanity.

He refers fatyric writings C. 13. to almoft every purpofe, but that which is moft important, or of the greateft utility. They anfwer the purpofes of cenfurs, and have hardly any of their inconveniencies. Perhaps



haps those inconveniencies might be removed, if under a specific protection or indemnity from the law, every man were required to sign his name to all written accusations; and, if not cognizable by judiciary courts, no proceedings were to be had on them, but such as were purely literary. Regulations of the kind, would raise this species of writing into its proper consequence; and while it extended the real liberty of the press, would destroy that licentious falsehood or indiscriminate malignity, which now dishonors it.

On bills of attainder, C. 19. Montesquieu differs from Cicero in opinion: but he is unfortunate at the same time, in contending against reason, and the principles of jurisprudence. Cicero would have bills of attainder abolished; because the authority of law consists in its being made for the whole community (Cic. de Leg.) Montesquieu says, 'I must own notwithstanding; the  
' practice of the freest nation that ever ex-  
' isted, induces me to think there are cases,  
' in which a veil should be drawn for a while

‘ over liberty, as it was customary to veil  
‘ the statues of the gods.’ — But few  
understandings can resist so beautiful a  
simile.

After making these objections, I cannot  
avoid recommending the book before us, on  
crimes and punishments, as amongst the  
most pleasing and instructive proofs of wis-  
dom and humanity, which have ever been  
given by a writer.



## LECTURE XIX.

### SPIRIT OF LAWS. BOOK XIII.

**I**N this book, Montesquieu considers the general principles of taxation.

The prevailing opinion of difficulties in the subject, and the reputation of the writers who have attempted to solve them; held me sometime in suspense and apprehension, that I might be involved in perplexity or dishonor, by going before you in an intricate path.

On a near and attentive examination, I own the difficulties. The experiments which should instruct us, are made in circumstances unfavorable to knowledge. Public revenues being generally the effects of rapine or oppression, they are scarcely referable by any ingenuity to principles of reason, equity or prudence. History does

not furnish intimations of attempts to introduce just or beneficial systems of finance. The errors and faults of public administrations, like the vices of individuals, have produced conveniencies or benefits ; and gradually enlarged our knowledge of the resources of communities, when talents, industry, and property are blended into a liquid mass, or flow like blood in perpetual and rapid circulation.

But the information obtained by such means, is unwelcome and reluctant. The produce of taxes is generally misemployed : taxes are therefore oppressions ; and to form evils into scientific principles, is the province of those who mean to obtain by them exclusive advantages. Appearances of order arising out of confusion, or of system from mismanagement or profligacy, has however, fixed the attention, and employed the abilities of political philosophers, the best friends of mankind. Our author is among the most distinguished of those philosophers : and when the puerilities, now assuming philosophical appellations, are forgotten ; the world



world will treat with respect and gratitude, the names of Montesquieu, Hume, Stuart, and Smith.

In considering the book before us, I had a wish not only to avail myself of the observations of these writers ; but to deduce, from a comparison of their theories, a concise account of the general principles of finance. But I found the undertaking impracticable in any time I could afford.

New definitions would have arisen ; and the prejudices to be removed were so numerous, that the subject would have required my whole attention : and I can devote to it only the short intervals of a necessary employment, and a mind checked by precarious health.

Sir James Stuart, the most profound and original of all writers on political subjects, has collected information and formed conceptions with great anxiety and labor : but he produced his thoughts as they occurred ; and he had nearly forgotten his native language. He is the miner, who plunges into the bowels of the earth ; while Montesquieu

and Hume are amused with appearances or hypotheses on the surface: but he leaves the ore mingled with dross. Dr. Smith has formed some of it into metal: inferior authors have stolen pieces unobserved; and financiers, or the secret prompters of financiers, occasionally avail themselves of his skill. The general mass remains to be explored by some congenial spirit; who, it is to be hoped, will do justice to his memory, while he profits by his labors.

Montesquieu, in the first chapter of the present book, defines the revenue of a state to be, 'a portion which every subject gives of his property, in order to have the agreeable enjoyment of the remainder.' The definition suits only, free governments properly administered; and he extends his observations to those which are despotic. The subject never gives, in despotic or arbitrary states. Where the property of the community is not supposed to be in the prince, his edicts or ordinances are compulsory; and the officers execute them



them with insult or violence.' In states denominated free, certain deceitful processes produce fictitious representation ; and by this fiction, the people are said to tax themselves. But the fact is otherwise. Parliaments influenced by the prince and the nobility, are not the sensoria of the community ; they do not express the public judgment ; or utter the public voice : and acts of parliament are arbitrary edicts or ordonances, under other names.

Montesquieu would determine the quantity or magnitude of public revenues, by the following maxims.

Chapter I. ' Nothing should be taken,  
' which supplies the real wants of the people,  
' to gratify the imaginary wants of the  
' state.'

' The public revenues are not to be measured  
' by what the people are able, but  
' by what they ought to give : if they be  
' measured by what they are able to give,  
' it should be at least by what they can give  
' constantly.'

The

The first of these maxims is admitted unconditionally by all the writers I have consulted on public revenues : yet it seems demonstrable, that the utmost industry in the most favorable situations, would not provide for the utmost effects of the generative faculty ; or procure sustenance for the number of people it would produce. It may therefore be an unavoidable misfortune in every society—that many of its members should be restrained from love or perish from want : and as the alternative is cruel, the determinations on it will not be uniform ; what politicians call a vicious procreation will take place ; and numbers will perish from want.

It is probable, no revenue would be obtained, if the maxim of our author were strictly or literally observed. The general spirit of it, however, may be regarded. In the several classes of the industrious, means of support should be sacred inviolable property ; and taxes as the sources of revenue, be drawn wholly from the alienation or exchange of their profits.

The measure of the public revenue, and  
the



the quantity of the taxes composing it, are considered by our author as a moralist; by Sir James Stuart as a philosophical financier. We shall not anticipate our exercises on the Treatise of Political Œconomy, if we oppose a maxim deducible from that work, to the opinion of our author; and form a subject of consideration or debate.

Sir James Stuart insinuates, that hardly any cause would more effectually or speedily destroy an industrious nation, than a power, left to every man, to enjoy all the fruits of his industry. The immediate effect of profit, is to change the consumption, denomination, and value of necessaries, by changing the mode of living. The price of work and of commodities is thus raised; and commerce destroyed, because it becomes impracticable, to serve foreign markets on equal terms, with persons differently circumstanced.

If a government could be supposed, to which national revenues were not requisite for the exigencies of state; yet industry should be taxed for its own preservation and prosperity.

prosperity. By preventing profits from being consolidated with price, the fruits of industry might be brought to market on proper terms; and while the artizan continued easy or happy—for the taxes must never interrupt this purpose—the state would have funds for the general interest, which is promoted by supporting its utmost industry.

All things are actuated by principles: and it is the business of wisdom to discover them.—I hope you will attentively exercise your abilities on the subject before us. It is extremely interesting to general happiness: and is deeply obscured by the chicane of state empirics; and the temporary instruments of political parties. Consider the measures or expedients of financiers, as facts, not principles; and endeavor to ascertain a standard of public revenue—I mean not to reflect on ministers, the general objects of panegyric or satire. I have never experienced either hope or disappointment from them: and I am perfectly impartial respecting their merits. I am sorry to say,  
the



the only modern statesman, whose measures deserve distinction in a calm and scientific enquiry, is not an Englishman.

My experience has given me a general suspicion of the principles of statesmen: and I will own, that in the present habits of government, it is nearly impracticable to act from honorable and virtuous principles. Among modern ministers, Mr. Necker is a phenomenon: and his productions on finance deserve your particular study.—For, though they describe measures and expedients for the immediate interests of France; he frequently refers to principles of general effect or importance.

The standard of public wealth, in governments properly constituted and administered, might probably be found, in the quantity of industry employed on conveniences, occasioning the liquidation of solid property, the circulation of money, and the various branches of trade or commerce.

Our author has not taken this view of the subject. He considers the exigencies of government, as weights retarding private industry;

dustry; and, like a benevolent moralist, wishes to render them as light as possible. This may be a just idea of matters of fact, respecting public revenues; which are generally oppressive burthens, imposed by rapacious ignorance or profligacy in power, on industry or poverty; and having no purpose beyond the gratification of the underserving, at the expence of the general body.

Montesquieu therefore affirms, Chap. II. we have not reasoned justly, when we conclude that taxes are good in their own nature. Conditions might be specified, wherein the imposition of taxes would be an useless and cruel act of power. But where industry produces alienation, trade, or commerce; and the government is actuated by any tolerable degree of public spirit—I hope the opponents of the author, will demonstrate, that taxes may be necessary and beneficial.

Professing to assist that party, which is least supported by precedents or authorities, and which is often discouraged by the fame or talents of our author, I will produce the methods suggested by Sir J. Stuart, in  
which



which taxes judiciously imposed and levied, may enrich a nation.

I. ‘ By putting into the hands of a good  
 ‘ statesman the means of removing every  
 ‘ abuse ; of rendering the state respected  
 ‘ by its enemies ; of supporting every class of  
 ‘ industrious inhabitants, when their particular  
 ‘ branches fall under distress ; of providing  
 ‘ an outlet for many young people,  
 ‘ who in time become ornaments to their  
 ‘ country and instruments of her defence ;  
 ‘ of supporting foreign trade by bounties on  
 ‘ exportation ; of encouraging the improvement  
 ‘ of lands, the establishment of colonies,  
 ‘ the extension of fisheries, and every  
 ‘ other scheme for augmenting the production  
 ‘ of subsistence and manufactures.’

II. ‘ That the multiplication of taxes, exclusive  
 ‘ of the encouragements just mentioned, which  
 ‘ are bestowed gratuitously on trade and  
 ‘ manufactures, do, of themselves, and independently  
 ‘ of the proper application of their amount, augment  
 ‘ demonstratively, the mass of circulation,  
 ‘ alienation, and industry ; and in this respect

‘ spect may be considered as a voluntary  
 ‘ contribution by the rich, who pay them,  
 ‘ to the industrious who directly draw them  
 ‘ back \*.’

The advice of Montesquieu to arbitrary monarchs or nobles, who draw revenues at pleasure from bondsmen or slaves, is persuasive and excellent.

The friends of the author, will find a difficulty in giving additional importance to the policy of obliging the vender, not the consumer of mercantile commodities, to pay the taxes on them. The burthen must ultimately rest on the consumer ; but he should not be deterred from the use of the commodities, by immediately feeling the burthen. Heavy taxes on cheap commodities, take off this illusion.

‘ The merchant in this case, as the author  
 ‘ observes—Chapter xiv.—advances to the  
 ‘ state, the duty which the consumer will  
 ‘ some time or other refund ; and he has  
 ‘ paid, for the consumer, the duty which

\* Polit. Oecon. B. 5. C. 9.

‘ he



' he paid for the merchandize. It is  
 ' therefore obvious, that in proportion to  
 ' the moderation of the government, the  
 ' prevalence of the spirit of liberty, and  
 ' the security of private fortunes—the mer-  
 ' chant has it in his power to advance  
 ' money to the state, and to pay consider-  
 ' able sums for individuals. In England,  
 ' a merchant actually lends to government  
 ' fifty or sixty pounds for every ton of wine  
 ' he imports. Where is the merchant, who  
 ' would venture to do any such thing in a  
 ' country like Turkey? And were he so  
 ' courageous, how could he do it, with a  
 ' dubious and shattered fortune?'—The  
 nature or quantity of taxes producing  
 public revenues, are therefore relative to  
 the principles of government.

But the processes of finance move in a  
 circle. ' Liberty produces excessive taxes ;  
 ' and excessive taxes (by destroying indus-  
 ' try) produce slavery ; and slavery produces  
 ' a diminution of tribute.'

Sir James Stuart, whose view is, to make  
 us bear the ills we have ; has imagined ano-

ther circle, which being only within the bounds of possibility, may never be of use in the political world.

‘ If no check \* be put to the augmentation of public debts, if they be allowed constantly to accumulate, and if the spirit of a nation can patiently submit to the natural consequences of such a plan ; it must end in this, that all property, that is income, will be swallowed up by taxes ; and these will be transferred to the creditors, the state retaining the administration of the revenue. The state, in that case, will always consider those who enjoy the national income, as the body of proprietors. This income will continue the same, and the real proprietors will pay the taxes proposed ; which may be mortgaged again to a new set of men, who will retain the denomination of creditors ; until by swallowing up the former, they slip into their places, and become the body of proprietors in their turn ; and thus perpetuate the circle.’

\* B. v. C. 13.



But he has acknowledged, a thousand incidents may destroy public credit, before such intricate revolutions can be accomplished.

He maintains,—‘ while the debts of a nation are due to its subjects, and while there remains any favorable balance in favor of the nation, no increase of debts can necessarily bring on a bankruptcy. It is a contradiction to suppose, that a nation can become bankrupt to itself. But when, on the general state of payments, between a nation and the world, there is found an annual balance, which cannot be compensated, either in the way of payment, or in the way of credit, then indeed a bankruptcy becomes unavoidable. From this reasoning, we may conclude, that the method of determining the exact extent of public credit, is to keep a watchful eye on the increase of debts to foreigners, and to compare these with the favorable balance upon the trade of the nation. When those debts, and this balance begin to draw near to an equality, if part of the

‘ capital of the public debts be not immediately paid off by an augmentation upon public contributions, the infallible consequence will be a state-bankruptcy.’

You will find no difficulty in forming these observations into questions.—But the subject being of peculiar intricacy and importance, it may not be improper to arrange such propositions as may open your way into it.

I. What is money ?

II. If you determine it to be—an artificial representation of commodities, the produce of labor and industry—what is the proper instrument of such representation ? or, of what should money consist ?

III. What is the reason of the scarcity or plenty of money ; and what measure may be taken, to influence either ?

IV. If the circulating money consist of metals ; and those metals fluctuate in their value, or in relation to each other, as mercantile commodities—by what means their representative qualities can be preserved with any truth or accuracy : and, on what principle,



principle, an estimate can be made, of national wealth or prosperity?

V. If paper be determined, as the best instrument of internal circulation—what is the mode of instituting banks—and what the accurate or just principle on which paper should be issued?

VI. What is the effect of taxes? and the reason in certain circumstances, that taxes appear to take nothing from the people?

VII. Whether taxes, equally laid, have any other immediate effect, than changing the denomination of the circulating money? For if they universally raise prices; no man suffers immediately by their imposition: nay, profits are generally made; and a species of prosperity generated by the imposition.

VIII. If taxes be the consequences of public debts; not of a spirit of regulation in government: what is the probable consequence of removing those debts, and changing the denomination of the circulating money?

- IX. The criterion of national prosperity ?  
X. The political effects of national debts ;  
and the advantages or disadvantages of  
public funds ?



## LECTURE XX.

SPIRIT OF LAWS. Books XIV. and XV.

**M**ONTESQUIEU, in the books under our present consideration, explains the general doctrine; the principal distinction of his fame.

That doctrine may be thus stated—The characters of passions or of minds, are different in different climates; and laws, whether domestic, civil, or political, must have references to these characters.

To prove the general proposition, he has enumerated physical causes, producing the hardness or courage of the North, and the indolence or timidity of the South: he has compared the effects of ease, with those of difficulty in obtaining sustenance; and the political consequences of necessary intemperance, with those of necessary sobriety.

The inferences from physical effects to moral and political institutions, are so plausible, that they have been generally adopted: and to dispute them, is a species of heresy.

Mr. Hume has added to his numerous offences against popular opinion—a general denial of the doctrine. If Mr. Hume had offered a refutation, I should only have directed you to his works. He considers government as a moral not a physical effect: and the gentlemen who mean to oppose the sentiments of Montesquieu, should not over-look those of Mr. Hume.

On this subject you should enquire, What may be denominated a physical; what a moral cause: and whether the latter may not be proved a modification of the former? If that should be the case—the ground of controversy would be changed, if not removed.

The author's facts, should not be taken on his authority. Instances of courage, fortitude and active ambition, are not peculiar to northern climates: Egypt, Greece, Rome, Carthage, and Arabia, have exhibited



hibited proofs of industry, love of liberty, fortitude and courage ; as numerous and unequivocal, as any similar virtues in the occurrences of northern nations. If liberty be the produce of cold ; and slavery of heat—whence arose the liberties of Greece, Carthage, and Rome ; or the despotic constitutions of Russia, Sweden, Denmark, Hungary, and Bohemia ?—How should all the Tartar Chiefs be tyrants ; and why should Scotland be enslaved ; while England obtained considerable portions of liberty ?

When you have examined the author's facts ; traced them into such effects as he denominates principles ; and contrasted them with the opinions of Mr. Hume : I would wish you to summon your best abilities on the following question.

Allowing climates may generate or influence passions and principles which produce science : Whether the truths of that science depend on climate ?

I will explain my meaning ; and point out the ground of your enquiry, by referring

ring to facts. The extensive plains of Chaldaea; the warmth of the climate rendering the nights delightful; and pastoral occupations in fertile districts, affording long intervals of leisure,—may have been the first occasions of astronomical discoveries. Chaldaea, may therefore be pronounced the climate of astronomy. But have the truths of the science, any dependance on that climate? Why was Newton born in England?

The inundation of the Nile fertilizing Egypt; the gradations of that inundation and the yearly adjustment of property, furnished the first ideas of geometry: yet, Euclid was not an Egyptian; and the truth or utility of the science, are congenial to the human understanding at Peterburgh, as they were at Memphis.

Why should politics be denied the privileges of all other sciences? Situations, perhaps climates, may affect their origin: but truth and utility are the objects of reason; and the scientific deductions of reason are uniform in all degrees of latitude.

The



The method I would recommend to you is, to consider all imaginable purposes of government, as you would those of any art or institution: — if the enquiry should terminate in the opinion, that the happiness of the people constituting the society is the only justifiable reason of its institution:—you will perceive facts in political history, to be the efforts of reason to attain this object; or to substitute gratifications of private passions and partial interests.

In these efforts, you will probably judge, that situations and climates, are circumstances of importance; but as human reason is gradually disentangled, you will perceive, it takes up political facts, as it does those of any science or art; and forms principles of general utility.

The students who presume to oppose the author, must keep in view,

I. That social institutions and actions, are under the direction of reason; not of physical impulse.

II. Though climates and situations may affect the first combinations of society, that

that influence, is subject to the regulation of reason ; and to be favoured or counteracted ; as it may tend, or be inimical, to the salutary purposes of government.

On the principles of Montesquieu, liberty and slavery are congenial to climates. According to reason, slavery is the disease of political bodies, incident to all climates ; which real wisdom is perpetually employed to mitigate or to expel.

In the fifteenth book, the author deduces civil slavery from climate, in order to adapt regulations or laws. But the causes enumerated in the second, third, fourth, fifth, sixth, and seventh chapters, are not peculiar to climate. Prisoners of war are saved for slavery ; debtors consigned to creditors ; the strong enslave the weak, under pretences of birth, difference of colour, customs, or religion ; and people sell themselves—in all climates.

The *tedium vitæ*, the supposed cause of suicide in England, is probably produced by the sudden variations of the atmosphere:  
physicians



physicians of reputation pronounce it a scorbutic disease. It has given rise to laws, which affect the disease only in the manner of amulets or incantations. The discontent it inspires, being of a desponding nature, I cannot perceive its tendency to political liberty. You may be more sagacious.

The general restlessness or dissatisfaction, supposed to be our national character, is the effect of moral, not of physical circumstances. An Englishman, struggles with inconveniences, in view of the shore; perpetually tantalized with the hope of reaching it. The great art of English policy, is to cover the unconstitutional processes of power, with pretences of patriotism. The people judging only by effects, and generally feeling effects in opposition to professions; are held in a state of suspicion or discontent. This is not the national character; as may be perceived on the first appearance of every political impostor, or on the slightest hopes of justice and public service, held out by the artifices of administration.

In

In the seventh chapter, the understanding and humanity of the author, struggle with systematic opinions; and a ray of truth seems to penetrate his mind: for he says, 'Slavery is contrary to nature, though in certain situations it be founded on natural reasons.'

He advises in the eighth chapter that 'slavery be confined to the particular countries to which it is natural.' Slavery has been introduced in all climates, and without advantage: it is a fact, not invalidated by a single exception, that enslaved periods, districts, and persons in every climate, have produced less labor, industry and wealth, than those emancipated or made free.

In the sixteenth book, he deduces a plausible argument for domestic slavery, from the apparent inequality of the sexes in warm climates: the women, by early puberty, being reduced to dependance. But this is a sophism. In domestic connections, dependance does not imply slavery. If it were otherwise; no argument could be obtained



obtained in favor of political servitude ; as man and wife, in a social view, are one person. If you peruse Forster's Observations in a voyage round the world, you will have reason to suppose, in opposition to the author, the disproportionate numbers of men and women, in different climates, is owing to moral, not to physical causes.

But domestic does not imply political despotism ; if the former were necessarily produced by climate. The Saxons, in the periods of their highest freedom, held their dependants in bondage : and that bondage was not the effect of climate.

But he attempts to prove, in the seven-teenth book, that political, like civil or domestic, servitude depends on climate.—He recurs to the difference of fortitude and courage, by the difference of heat. I think historical facts in Europe and Asia are against him. According to Montesquieu, extensive plains are as fatal to liberty, as a mild climate. He asserts Tartary to be an ‘ immense plain,’—to account for its political condition.

He

He says, Asia has been frequently conquered, Europe seldom: he would infer, the climate disposed Asia for servitude. But it has been over-run by southern as well as northern armies. Military conquests have been the occasions of Asiatic slavery; and they are moral, not physical causes. The Norman invader of England, though his progress was northward, was not less a despot, than Timur, or Genghis Khan.

To do justice to the general question, you should consider — whether climate operating on all its productions equally; all being equally invigorated or enervated—can occasion the domestic, civil, and political distinctions observable in the world?

For instance, suppose the climate of Egypt should enervate the inhabitants---does the operation affect all; or does it except particular persons and ranks, with a tendency to despotic elevation or power? If the exception be not made; how can climate be said to produce that power?

You may form a question respecting cold, in a similar manner.

That



That an equal surface of country is favorable to slavery; and that an unequal surface is favorable to liberty—are positions of our author deemed unassailable. I doubt their validity, either in reason or in history. And I wish you to enquire—while in extensive plains all the inhabitants are equally destitute of fastnesses or opportunities of shelter, what cause favors the attempts of tyrants, and what checks the efforts of freedom? Whether those causes may not be counteracted or over-ruled, by the acquisition and application of scientific principles; which are in favor of general liberty and happiness? If unequal surfaces or mountainous situations produce liberty — how has the north of Europe been generally enslaved? Or why should it remain in bondage, after the emancipation of southern districts.

That liberty may or may not occupy an extensive dominion, is a problem highly deserving your attentive consideration: as the opinion of the author militates against efforts in political science, most important

to the happiness of mankind. I have observed, the functions of the political, like those of the natural body, depend on its construction or organization ; and I see no reason for rendering its size diminutive. Alfred constructed the government of England, on principles so truly scientific, that it was animated and active in every atom. The legislators of America have ventured on an attempt, in direct opposition to the principles of Montesquieu. But I fear, they will not refute him. Their constitutions are judicious in the general form of the confederacy : but they have been inattentive to the organization of the extremities, with which the heart should have rapid and intimate sympathy. America is in possession of wise and good men ; but policy, in their early studies, was only a secondary science : and as they owe the deliverance of their country, more to the folly of its oppressors, than to their efforts ; they may owe political tranquillity for ages, more to situation, than to any peculiar wisdom in the construction of their constitution.

I do



I do not mean to render that Constitution the subject of critical enquiry, at this time. I reserve it for a later period of your studies.

Having taken a view of the peculiar system of the author—I shall leave him in your hands: the remaining books having no positions which are not inferences from his general doctrines.

The next Course of Lectures will be on *Stuart's Political Oeconomy*; which I request you to peruse in the recess.

I will not take leave of you, without expressing my regret, that an inveterate spirit of party, often impedes my endeavors to assist your studies. It is the disgrace; and it may be ruin of this country. You affect to discredit my pretensions to impartiality, respecting the success of contending factions. I may have an opinion concerning their leaders; but it can be of no importance, either from my power or influence: and, while public business is to be under the direction of a faction, the character of

its leader is not a matter of profound or interesting enquiry.

The reputation of Great Britain, for invention, knowledge, and industry, has not been produced ; and it is not sustained, by its political administration : but the minister of such a kingdom, should clearly comprehend the sources of its fame, and the mode of directing them. I do not understand the parliamentary debates, if that minister is to be found in the factions of the time. I readily subscribe to the general opinion of the wit and eloquence of parliamentary orators. But we are making efforts to pass the regions of amusement, into those of science. All the provinces of knowledge are cultivated in a manner most honorable to the British name. Is government alone to retain its prejudices and habits ? Can an Englishman recollect without blushing, that in a scientific age, all resolutions affecting the general welfare, are under the direction of men—of brilliant imaginations and great abilities—but educated or instructed only in the management of parliamentary parties ?

If



If the absurdity and dishonor of such a situation will not dissipate your partial passions, look over into France, where a scene is just opening, that should excite your noblest emulation. The king of France, instead of forcing on the nation the minister of his choice, has submitted to the public opinion ; and that opinion is worthy of the general state of knowledge, at this period. France, under such direction, will spring suddenly into a condition of vigor and prosperous activity, that may astonish Europe.

Can Britain produce no competitor to Necker, in the glorious design of removing the chains of wretchedness, or diffusing general happiness ?

In what circumstance, indicating genius, knowledge, or capacity for public business, is the ‘ History of the Wealth of Nations,’ inferior to the ‘ Administration of the Finances of France ?’—Or, in what essential quality of a real statesman, has Mr. Necker the advantage of Dr. Adam Smith ?

Having been repeatedly urged, to avow my party—I have pointed out its leader :  
and

and when the ' History of the Wealth of Nations' — comes under consideration, I hope you will compare the effects of my attachment, with those of your political devotion, occasionally obtruded on our exercises and pursuits.

THE END.



